

Public Document Pack

Head of Governance: Karen Shepherd: (01628) 796529

TO: EVERY MEMBER OF THE COUNCIL FOR THE ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

YOU ARE HEREBY SUMMONED TO ATTEND the Extraordinary Meeting of the Council of the Royal Borough of Windsor & Maidenhead to be held as a **Virtual Meeting - Online access** on **Monday, 23 November 2020 at 6.15 pm** for the purpose of transacting the business specified in the Agenda set out hereunder.

Dated this Friday, 13 November 2020



Duncan Sharkey
Managing Director

A G E N D A

PART I

1. APOLOGIES FOR ABSENCE
To receive any apologies for absence

2. DECLARATIONS OF INTEREST
To receive any declarations of interest
(Pages 5 - 6)

3. PUBLIC QUESTIONS

The deadline for public questions (directly related to an item on the agenda) is 12noon on Wednesday 18 November.

For information contact karen.shepherd@rbwm.gov.uk or 01628 796529

(The Council will set aside a period of 30 minutes to deal with public questions, which may be extended at the discretion of the Mayor in exceptional circumstances. The Member who provides the initial response will do so in writing. The written response will be published as a supplement to the agenda by 5pm one working day before the meeting. The questioner shall be allowed up to one minute to put a supplementary question at the meeting. The supplementary question must arise directly out of the reply provided and shall not have the effect of introducing any new subject matter. A Member responding to a supplementary question will have two minutes to respond).

4. REFERRALS FROM OTHER BODIES

To consider referrals from other bodies (e.g. Cabinet)

i) APPOINTMENT OF STATUTORY OFFICER

To consider the above report
(Pages 7 - 12)

5. LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF PUBLIC

To consider passing the following resolution:-

"That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on item 6 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act"

PART II – PRIVATE MEETING

6. REFERRALS FROM OTHER BODIES

i) APPOINTMENT OF STATUTORY OFFICER

To note the Part II appendix to the earlier Part I report
(Pages 13 - 14)

ii) AFFORDABLE HOUSING & TEMPORARY ACCOMMODATION

To consider the above report
(Pages 15 - 66)

COUNCIL MOTIONS – PROCEDURE

- Motion proposed (mover of Motion to speak on Motion)
- Motion seconded (Secunder has right to reserve their speech until **later** in the debate)
- Begin debate

Should An Amendment Be Proposed: (only one amendment may be moved and discussed at any one time)

NB – Any proposed amendment to a Motion to be passed to the Mayor for consideration before it is proposed and seconded.

- Amendment to Motion proposed
- Amendment must be seconded BEFORE any debate can take place on it

(At this point, the mover and seconder of original Motion can indicate their acceptance of the amendment if they are happy with it)
- Amendment debated (if required). Members who have spoken on the original motion are able to speak again in relation to the amendment only
- Vote taken on Amendment
- If Agreed, the amended Motion becomes the substantive Motion and is then debated (any further amendments follow same procedure as above).
- If Amendment not agreed, original Motion is debated (any other amendments follow same procedure as above).

- The mover of the Motion has a right to reply at the end of the debate on the Motion, immediately before it is put to the vote.
- At the conclusion of the debate on the Motion, the Mayor shall call for a vote. Unless a named vote is requested, the Mayor will take the vote by a show of hands or if there is no dissent, by the affirmation of the meeting.
- If requested by any **5** Members the mode of voting shall be via a named vote. The clerk will record the names and votes of those Members present and voting or abstaining and include them in the Minutes of the meeting.
- Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting

(All speeches maximum of 5 minutes, except for the Budget Meeting where the Member proposing the adoption of the budget and the Opposition Spokesperson shall each be allowed to speak for 10 minutes to respectively propose the budget and respond to it. The Member proposing the budget may speak for a further 5 minutes when exercising his/her right of reply.)

Closure Motions

a) A Member who has not previously spoken in the debate may move, without comment, any of the following Motions at the end of a speech of another Member:

- i) to proceed to the next business;
- ii) that the question be now put to the vote;
- iii) to adjourn a debate; or
- iv) to adjourn a meeting.

b) If a Motion to proceed to next business is seconded, the Mayor will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.

c) If a Motion that the question be now put to vote is seconded, the Mayor will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

d) If a Motion to adjourn the debate or to adjourn the meeting is seconded, the Mayor will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply

Point of order

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of the Council Rules of Procedure or the law. The Member must indicate the procedure rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

Personal explanation

A Member may make a personal explanation at any time with the permission of the Mayor. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the requirement of a personal explanation will be final.

MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in the discussion or vote at a meeting.** The speaking time allocated for Members to make representations is at the discretion of the Chairman of the meeting. In order to avoid any accusations of taking part in the discussion or vote, after speaking, Members should move away from the panel table to a public area or, if they wish, leave the room. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any licence to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where:
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations on the item: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations in the item: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

This page is intentionally left blank

Report Title:	Appointment of Statutory Officer
Contains Confidential or Exempt Information?	Yes - Part I, main body of report with a Part II appendix - Not for publication by virtue of paragraphs 2 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972.
Lead Member:	Councillor Johnson, Leader of the Council
Meeting and Date:	Extraordinary full Council - 23 November 2020
Responsible Officer(s):	Duncan Sharkey, Managing Director
Wards affected:	All

www.rbwm.gov.uk



REPORT SUMMARY

This report requests approval for the statutory appointment of Monitoring Officer.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Council notes the report and:

- i) **Appoints the candidate named in Appendix A as the Council's Monitoring Officer and Deputy Director of Law and Strategy with effect from 1 February 2021, on the recommendation of the Appointment Committee.**
- ii) **Acknowledges and thanks Mary Severin for her contribution as Monitoring Officer over the past 3 years and notes Mary will continue as Monitoring Officer until the new candidate is in post.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
To approve the statutory appointment of Monitoring Officer. This is the recommended option	Allows the Council to continue to meet its statutory requirements.
To not approve the statutory appointment of Monitoring Officer.	The Council would need to identify an alternative suitable person for this role.

- 2.1 Under the Local Government and Housing Act 1989 the Council has a duty to appoint one of its officers to the statutory position of Monitoring Officer.

Role of Monitoring Officer

- 2.2 The role of Monitoring Officer is a statutory appointment and serves as the guardian of the Council's Constitution and the decision-making process. The Monitoring Officer is responsible for advising the Council on the legality of its

decisions and providing guidance to councillors and officers on the Council's Constitution and its powers. The role has a responsibility to report breaches and possible breaches of the law or maladministration to the Council.

- 2.3 The Monitoring Officer works closely with the Council's Managing Director to assist in the role of promoting and maintaining high standards of conduct and probity within the Council.
- 2.4 There are six functions of the Monitoring Officer as set out in the constitution:
1. **Maintaining the Constitution:** The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
 2. **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Director of Resources, the Monitoring Officer will report to the Council or to Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
 3. **Proper Officer for access to information:** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
 4. **Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules:** The Director of Resources in consultation with the Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
 5. **Providing advice:** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles. Royal Borough of Windsor and Maidenhead Constitution Part 5
 6. **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice on the lawfulness or probity of any matter.
- 2.5 Mary Severin is currently the Council's Monitoring Officer through a shared arrangement with Wokingham Borough Council. This arrangement is ending due to retirement providing the opportunity to review future provision.
- 2.6 The full-time position of Monitoring Officer has been created to provide increased resource. The role will also have wider corporate responsibilities within the organisation providing greater capacity and therefore the full post title is Monitoring Officer and Deputy Director of Law and Strategy.
- 2.7 The Constitution states that Full Council will approve the appointment of the Monitoring Officer. The Appointment Committee has delegated the appointment of a Deputy Director to the Head of Paid Service, however due to

the post also being the Monitoring Officer, the Head of Paid Service has chosen not to exercise his discretion. Therefore, the decision as to which candidate to recommend to Council has been made by the Appointment Committee following a full recruitment process.

Recruitment Process

- 2.8 Senior level recruitment is usually supported by a search agency to ensure that the greatest pool of potentially suitable candidates can be achieved. Solace In Business were engaged to provide this support.
- 2.9 The post was advertised in the MJ, the market leading title in terms of reaching senior local authority professionals. It was also advertised online with the Law Society Gazette to target a more specific professional audience. The campaign also included social media promotion through LinkedIn as well as via the Solace In Business website and Twitter feed. A recruitment microsite was created enabling candidates to access detailed information about the Council, the role and the attributes expected of them.
- 2.10 12 applications were received. These were all considered on 26 October 2020 by members of the Appointment Committee, Managing Director and Head of HR, Corporate Projects and IT. A long list 8 of candidates was decided upon. These candidates attended a preliminary interview with a consultant from Solace and a technical assessor who is very experienced in the field having held senior legal roles within local authorities. The candidates also undertook a range of online psychometric assessments.
- 2.11 The Managing Director and Members of the Appointment Committee met with Solace representatives on 5 November 2020 to consider the outcome of the preliminary assessments. As a result, one candidate was shortlisted and invited to attend a final interview. A virtual MS Teams session was also arranged to give the candidate an opportunity to meet the Council's statutory finance officers and senior legal representative prior to the final interview.
- 2.12 After careful consideration, it was agreed that given the seniority of the appointment, the interview would be conducted in person at the Town Hall. All necessary risk assessments and safety procedures were put in place to enable this to happen safely.
- 2.13 The final interview took place on 9 November 2020 with Members of the Appointment Committee forming the interview panel. The panel comprised Councillor Johnson, Leader of the Council, Cllr Rayner, Deputy Leader of the Council, Resident and Leisure Services, HR, IT, Legal, Performance Management, Windsor, Cllr Carroll, Deputy Chairman of Cabinet, Adult Social Care, Children's Services, Health and Mental Health, Cllr L Jones, Group Leader Local Independents, Cllr Baldwin, Ward Councillor for Belmont. The panel were advised by Duncan Sharkey, Managing Director, Nikki Craig, Head of HR, Corporate Projects and IT and Steve Guest, Head of Executive Recruitment & Assessment from Solace.
- 2.14 Following the interview, a formal meeting of the Appointment Committee took place, those in attendance are as listed in 2.13. It was agreed by Appointment Committee to recommend to Council the appointment of the candidate named in Appendix A as the new Monitoring Officer and Deputy Director of Law and

Strategy. The experience of the candidate is summarised in Appendix A. The candidate's name will be released once due process has concluded.

- 2.15 If the recommended candidate is appointed the salary will be within the approved Deputy Director Salary Band. They will commence employment with the Council following completion of their notice period with their current employer. Mary Severin will continue as the Council's Monitoring Officer until the appointed candidate commences employment with the Council.

3. KEY IMPLICATIONS

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Statutory officer appointed and commences duties	Appointment not approved	01/02/2021	N/A	N/A	01/02/2021

4. FINANCIAL DETAILS / VALUE FOR MONEY

Appointment is within the Deputy Director Salary Band of £86,700 - £102,816. There are no additional financial implications associated with this report as provision has been made within the revenue budget.

5. LEGAL IMPLICATIONS

- 5.1 Section 5 (1) of the Local Government and Housing Act 1989 places a duty on the Council to appoint one of its officers to the statutory position of Monitoring Officer and provide that officer with such staff and resources which, in that person's opinion, is necessary to allow them to carry out their duties.
- 5.2 Under Part 2A of the Constitution, Council must confirm the appointment of the Monitoring Officer.

6. RISK MANAGEMENT

Table 3: Impact of risk and mitigation

Risks	Uncontrolled risk	Controls	Controlled risk
The council does not appoint a statutory Monitoring Officer; Council is not fulfilling its statutory responsibility.	High	An experienced officer is recommended for the position.	Low

7. POTENTIAL IMPACTS

7.1 None

8. CONSULTATION

8.1 The recommendation to appoint the candidate named in Appendix A was made by Appointment Committee in consultation with the Managing Director and Head of HR, Corporate Projects and IT.

9. TIMETABLE FOR IMPLEMENTATION

9.1 The recommended candidate will take up their duties upon the completion of their notice period with their current employer which is expected to be the beginning of February 2021. Mary Severin will continue as Monitoring Officer until that time.

10. APPENDICES

10.1 Appendix A – **Part II** Appointment of Statutory Officer Candidate Details

11. BACKGROUND DOCUMENTS

11.1 N/A

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Johnson	Leader of the Council	12/11/20	12/11/20
Cllr Rayner	Deputy Leader of the Council, Resident and Leisure Services, HR, IT, Legal, Performance Management, Windsor; Armed Forces Champion	12/11/20	12/11/20
Cllr Carroll	Deputy Chairman of Cabinet, Adult Social Care, Children's Services, Health and Mental Health	12/11/20	13/11/20
Cllr L Jones	Leader Local Independents	12/11/20	12/11/20
Cllr Baldwin	Member for Belmont	12/11/20	12/11/20
Duncan Sharkey	Managing Director	12/11/20	12/11/20
Adele Taylor	Director of Resources/S151 Officer	12/11/20	12/11/20
Andrew Vallance	Head of Finance/Deputy S151 Officer	12/11/20	12/11/20
Elaine Browne	Head of Law	12/11/20	12/11/20
Mary Severin	Monitoring Officer	12/11/20	12/11/20
Russell O'Keefe	Executive Director, Place	12/11/20	

Name of consultee	Post held	Date sent	Date returned
Hilary Hall	Director of Adults, Health and Commissioning	12/11/20	12/11/20
Kevin McDaniel	Director of Children's Services	12/11/20	12/11/20
Louisa Dean	Communications	12/11/20	
Karen Shepherd	Head of Governance	12/11/20	13/11/20

REPORT HISTORY

Decision type: Council decision	Urgency item? No	To Follow item? No
Report Author: Nikki Craig, Head of HR, Corporate Projects and IT.		

By virtue of paragraph(s) 2, 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank