

Report Title:	Statutory Officer Appointments
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Werner, Leader of the Council and Cabinet Member for Community Partnerships, Public Protection and Maidenhead
Meeting and Date:	Extraordinary Council – 27 June 2023
Responsible Officer(s):	Stephen Evans, Chief Executive
Wards affected:	All

REPORT SUMMARY

This report requests approval for the statutory appointments of Section 151 Officer and Monitoring Officer.

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Council notes the report and appoints:

- i) Elizabeth Griffiths as the Council’s Section 151 Officer following her appointment to the role of Executive Director of Resources.**
- ii) Elaine Browne, currently Head of Law and Governance and Interim Monitoring Officer, as the Council’s permanent Monitoring Officer.**

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

Options

Table 1: Options arising from this report

Option	Comments
To approve the statutory appointments of Section 151 Officer and Monitoring Officer. This is the recommended option	The officers proposed for appointment are suitably qualified and experienced to undertake these statutory responsibilities.
Do Nothing	This not an option as the council would statutorily uncompliant and therefore in breach of its duties.

Section 151 (s151) Officer

2.1 The Council is required under s151 of the Local Government Act 1972 to appoint a suitably qualified officer responsible for the proper administration of its affairs to the statutory position of s151 Officer. Following the resignation and departure of the Council’s Executive Director of Resources and s151 Officer in March 2023,

Council approved interim arrangements at its meeting on 21 February 2023. These were to remain in place pending a review of how the vacant Executive Director functions and consequently s151 Officer duties would be most appropriately carried out going forward. The outcome of the review was to proceed with external recruitment to the Executive Director of Resources post. This has now been completed and Elizabeth Griffiths appointed to the role.

2.2 The s151 Officer, which is also referred to in the Council's Constitution as the Chief Finance Officer works closely with the Council's Chief Executive and Monitoring Officer to lead the promotion and delivery of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

2.3 There are five functions of the Chief Finance Officer:

1. Ensuring lawfulness and financial prudence of decision making: After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, (s114 of the Local Government Finance Act 1988) or to the Cabinet in relation to an executive function, and the Council's external auditor if he/she considers that the authority:

- a. has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
- b. has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
- c. is about to enter an item of account the entry of which is unlawful.

Under the same act the Chief Finance Officer shall make a report under this section if it appears to him/her that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

2. Administration of financial affairs: The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council (section 151 of Local Government Act 1972) and will certify the robustness of the council's estimates of expenditure and the adequacy of the level of reserves in the proposed budget as required by Section 25 of the Local Government Act 2003.

3. Contributing to corporate management: The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

4. Providing advice: The Chief Finance 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.

5. Give financial information: The Chief Finance Officer will provide financial information to the media, members of the public and the community.

2.4 Elizabeth Griffiths has been appointed to the role of Executive Director of Resources by the Council's Appointment Panel following a national search and rigorous selection process. Elizabeth is a qualified accountant and Associate of

the Chartered Institute of Management Accountants. Currently Chief Finance Officer (s151 Officer) and Deputy Chief Executive at West Oxfordshire District Council, Elizabeth also has significant private sector experience ranging from small entrepreneurial start-ups to international retailers. More recently she has moved into more community focused roles, working with companies with charitable and social objectives, before moving into the public sector several years ago. If approved, Elizabeth will formally take up the duties of s151 Officer from the date of commencement of employment with the Council, this is expected to be around early September 2023. Andrew Vallance, the Council's Head of Finance and Deputy s151 Officer, will continue to fulfil the full statutory s151 Officer role on an interim basis until Elizabeth starts.

Monitoring Officer (MO)

- 2.5 The Council is required under the Local Government and Housing Act 1989 to appoint one of its officers to the statutory position of MO. Following the resignation and departure of the Council's Director of Law, Strategy & Public Health and Monitoring Officer in March 2023, Council approved interim arrangements at its meeting on 21 February 2023. These were to remain in place whilst a review of how the vacant Director functions and consequently MO Officer duties would be most appropriately carried out going forward. The outcome of this review is to not replace the Director position and a realignment of the Council's senior management structure has been implemented accordingly. The statutory MO duties will now be incorporated into the role of Head of Law and Governance, which has previously been assigned as Deputy MO.
- 2.6 The role of MO is a statutory appointment and serves as the guardian of the Council's Constitution and the decision-making process. The MO 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 of the law or maladministration to the Council.
- 2.7 The MO works closely with the Council's Chief Executive to assist in the role of promoting and maintaining high standards of conduct and probity within the Council.
- 2.8 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.

2.9 Elaine Browne is the Council's Head of Law and Governance and Deputy MO and was appointed Interim MO by Council on 21 February 2023. This arrangement will now be made permanent. Elaine has been a qualified solicitor and member of the Law Society for over 18 years and has worked within local government legal services throughout that time. If appointed Elaine will take up the permanent duties with immediate effect.

3. KEY IMPLICATIONS

It is essential that the Council remains compliant with its legal obligations by ensuring statutory posts are filled and the associated duties being undertaken at all times. The table below sets out the key implications.

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Statutory Officers appointed					27 June 2023

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 There are no additional financial implications, appointments are contained within existing revenue budgets.

5. LEGAL IMPLICATIONS

5.1 Section 151 of the Local Government Act 1972 requires every local authority to appoint a suitably qualified officer responsible for the proper administration of its affairs. The Council must 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 Section 113 of the Local Government Finance Act 1998 requires the responsible officer under Section 151 of the 1972 Act to be a member of a specified accountancy body.

5.3 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.

5.4 Under Part 2A of the Constitution, Council must confirm the appointment of the Monitoring Officer.

6. RISK MANAGEMENT

6.1 There are no risks associated with this decision.

7. POTENTIAL IMPACTS

7.1 Equalities. An Equality Impact Assessment is available as Appendix A.

7.2 Climate change/sustainability. No impact.

7.3 Data Protection/GDPR. No impact.

8. CONSULTATION

8.1 Council approved the interim arrangements with regard to statutory officer appointments and Appointment Panel have been fully involved in the permanent recruitment process.

9. TIMETABLE FOR IMPLEMENTATION

9.1 Implementation date if not called in: Immediately.

9.2 The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
27/06/2023	Council decision
28/06/2023	Permanent MO commences duties
Sept 2023	Permanent s151 commences duties, interim arrangements to continue until that time.

10. APPENDICES

10.1 None.

BACKGROUND DOCUMENTS

10.2 None.

11. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
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Directors			
Stephen Evans	Chief Executive	08.06.23	08.06.23
Other consultees:			
Kirsty Hunt	Service Lead - Electoral and Democratic Services	16.06.23	19.06.23

Confirmation relevant Cabinet Member(s) consulted	Councillor Werner, Leader of the Council and Cabinet Member for Community Partnerships, Public Protection and Maidenhead	Yes
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REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Council decision	No	No

Report Author: Kathy Hook, Service Lead – HR Business Partnering, 01628 796414
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Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

1. Background Information

Title of policy/strategy/plan:	<u>Appointment of Statutory Officers</u>
Service area:	<u>Not applicable</u>
Directorate:	<u>Not applicable</u>

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

Following the resignations and subsequent departures of the former Executive Director of Resources and s151 Officer and the Director of Law, Strategy and Public Health and Monitoring Officer, replacement permanent Statutory Officer appointments are legally required.

The recommended appointment of the incoming new Executive Director of Resources as s151 Officer follows a national search and recruitment campaign. The Head of Law and Governance is already Deputy Monitoring Officer and has been undertaking the full Monitoring Officer duties on an interim basis, this will now be made permanent.

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

No. One new joining employee will be appointed as s151 Officer and an existing employee will be appointed as Monitoring Officer on a permanent basis. Both have the appropriate qualification, skills and experience. There is no wider direct impact on RBWM staff.

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

<p>Who will be affected by this proposal? For example, users of a particular service, residents of a geographical area, staff</p>
<p>Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) disproportionately represented? For example, compared to the general population do a higher proportion have disabilities?</p>
<p>What engagement/consultation has been undertaken or planned?</p> <ul style="list-style-type: none">• How has/will equality considerations be taken into account?• Where known, what were the outcomes of this engagement?
<p>What sources of data and evidence have been used in this assessment? Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.</p>

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age			
Disability			
Sex			
Race, ethnicity and religion			
Sexual orientation and gender reassignment			
Pregnancy and maternity			
Marriage and civil partnership			
Armed forces community			
Socio-economic considerations e.g. low income, poverty			
Children in care/Care leavers			

5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it?

For example, adjustments needed to accommodate the needs of a particular group

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Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?

- For planned future actions, provide the name of the responsible individual and the target date for implementation.

How will the equality impacts identified here be monitored and reviewed in the future?

See guidance document for examples of appropriate stages to review an EQIA.

6. Sign Off

Completed by: Kathy Hook	Date: 07.06.2023
Approved by:	Date:

If this version of the EQIA has been reviewed and/or updated:

Reviewed by:	Date:
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