

REPORT OF THE
Chief Executive

PART I

APPOINTMENT OF MONITORING OFFICER AND DATA PROTECTION OFFICER

1. Local Government and Housing Act 1989 – Appointment of Monitoring Officer

- 1.1 Together with all other relevant Authorities, by virtue of the requirements of Section 5 of the Local Government and Housing Act 1989 (the 1989 Act), the County Council is required to designate one of its Officers as Monitoring Officer, to carry out the statutory functions of the Monitoring Officer set out at Sections 5 (2) and 5 (A) of the 1989 Act, concerning statutory reports to the County Council, or where appropriate the Executive, regarding matters of unlawfulness or maladministration.
- 1.2 In addition, by virtue of the operation of a number of other statutory requirements and the County Council's Constitution, a number of other functions of the County Council are the responsibility of the Monitoring Officer, as set out at Part I, Chapter 13, Paragraph 1.4, Part I Chapter 16, Contract Standing Orders and Financial Regulations.
- 1.3 On 8 November 2022, the Employment in Hampshire County Council Committee (EHCC Committee) approved a report from the Chief Executive regarding an Organisational Restructure. Consequential upon approval of this report, it is proposed that responsibility for oversight of the County Council's Corporate Complaints Procedure (including Data Protection and Freedom of Information matters), (presently the responsibility of the Monitoring Officer), should instead fall within the responsibilities of the Director of People and Organisation (presently the Director of HR, OD, Communications and Engagement). The Organisational Restructure will come into effect on 1 January 2023.
- 1.4 Currently the Monitoring Officer is the Head of Law and Governance, who has held this designation since 2009. The Head of Law and Governance has indicated her intention to retire from the County Council at the end of March 2023. In the circumstances and to ensure a smooth transition to the new Organisational Structure, it is considered sensible that the re-designation of the position of Monitoring Officer take effect from the implementation of the new Organisational Structure on 1 January 2023.
- 1.5 Under the Operating Model of the new Organisational Structure, David Kelly, currently Head of Legal Services, will be appointed to the post of Assistant Director Legal Services, reporting to the Director of People and Organisation.

- 1.6 Mr Kelly has been the Deputy Monitoring Officer of the County Council since 2009, working closely with the Monitoring Officer, and as such has significant experience of the requirements and responsibilities of the position. It is proposed that Mr Kelly be designated by the County Council as the County Council's Monitoring Officer.
2. **General Data Protection Regulation - Appointment of Data Protection Officer**
- 2.1. In addition, together with all public authorities, the County Council is required to designate one of its Officers to carry out the statutory duties of the Data Protection Officer pursuant to Article 37-39 of the General Data Protection Regulation (GDPR).
- 2.2. The duties of the Data Protection Officer including assisting the County Council in monitoring internal compliance, the provision of advice on Data Protection activities and acting as a contact with the Information Commissioner's Office (ICO).
- 2.3. GDPR states that the designated person should be a senior post within the authority, reporting to Chief Officer level, be independent from the business, with expert knowledge of the subject area, and have adequate resources to meet their GDPR obligations.
- 2.4. Currently the County Council's Data Protection Officer is the Head of Law and Governance. Under the Operating Model of the new organisational structure, responsibility for Governance will also fall within the responsibilities of the Director of People and Organisation, who as indicated above will have responsibility for supervision of the County Council's Corporate Complaints Procedure (including Data Protection and Freedom of Information matters). It is proposed that the Deputy Director of People and Organisation (Steph Randall) be designated by the County Council as the County Council's Data Protection Officer, with effect from implementation of the new Organisational Structure on 1 January 2023.

RECOMMENDATIONS

That the County Council:

- a) Approves appointment of David Kelly as the County Council's Monitoring Officer with effect from 1 January 2023.
- b) Approves appointment of Steph Randall as the County Council's Data Protection Officer with effect from 1 January 2023.
- c) Authorises the Monitoring Officer to make the necessary amendments to the County Council's Constitution consequential upon these appointments.