



**Council**

**Monday 6 September**

**Subject: Appointment of Monitoring Officer**

Report by:

Chief Executive

Contact Officer:

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(Interim)  
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Purpose / Summary:

To make an appointment to the Statutory post of Monitoring Officer for West Lindsey District Council

**RECOMMENDATION(S):**

It is recommended that

- (a) In accordance with the terms of Part I, 5 of the Local Government and Housing Act 1989 (as amended) and all subsequent related legislation, Mrs Emma Redwood be appointed as the Council's Monitoring Officer, with immediate effect.
- (b) The Constitution be amended, as necessary, to reflect this revised appointment.

## IMPLICATIONS

### **Legal:**

The Council has a statutory duty to appoint to the position of Monitoring Officer

### **Financial : FIN/62/22/SL**

There are no financial implications from this appointment.

### **Staffing :**

The role of Monitoring Officer has a range of support provision to ensure the officer is able to undertake their responsibilities in the fullest. This will include:

- A – A Personal external coach
- B – A contract for legal support with Lincolnshire Legal Services Partnership
- C – Expert coaching/mentoring from an existing Monitoring Officer
- D – A cross Lincolnshire support group of Monitoring Officers.

### **Equality and Diversity including Human Rights :**

N/A

### **Data Protection Implications :**

N/A

### **Climate Related Risks and Opportunities :**

N/A

### **Section 17 Crime and Disorder Considerations :**

N/A

### **Health Implications:**

N/A

### **Title and Location of any Background Papers used in the preparation of this report:**

N/A

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<b>Risk Assessment :</b>
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N/A
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**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

**Yes**

**No**

**Key Decision:**

A matter which affects two or more wards, or has significant financial implications

**Yes**

**No**

## 1 Background

- 1.1 The role of Monitoring Officer is a Statutory Officer, which Council has a duty to appoint to.
- 1.2 The role of Monitoring Officer is currently assigned to Mr James O'Shaughnessy, Head of Policy, Strategy and Sustainable Environment, and has been since April 2021.
- 1.3 Council will be aware that Mr O'Shaughnessy departed the authority on 18 August, to take up a position with North Lincolnshire Council.
- 1.4 Due to the departure of the current post holder, it is essential that a new appointment is made immediately.

## 2. Regulations

### 2.1 Monitoring Officer

#### 2.3.1 *Part I, section 5 of the Local Government and Housing Act 1989*

- (i) It shall be the duty of every relevant authority –
  - (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties to be performed;

and the officer so designated may be the head of the authority's paid service but shall not be their chief finance officer.

This was later amended in the *Local Government Act 2000 Schedule 5 (24)* as:

- 3) 1a) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority's paid service
- 1b) Subsection (1a) above applies to the following relevant authorities in England and Wales –
  - (a) a county council;
  - (b) a county borough council;
  - (c) a district council;
  - (d) a London borough council;
  - (e) a Greater London Authority; and

- (f) the Common Council of the City of London in its capacity as a local authority, police authority or post health authority.

### **3. Role of the Monitoring Officer**

- 3.1 The Monitoring Officer's statutory duty under Section 5 can be summarised as being a duty to ensure that the Council, its elected members and officers maintain the highest standard of conduct in all that they do.
- 3.2 The Monitoring Officer must report to the Council in any case where they are of the opinion that any proposal, decision or omission of the Council, its committees or subcommittees or anyone employed by the Council is, or is likely to be, illegal or to constitute maladministration.
- 3.3 If the Monitoring Officer makes such a report to the Council, it will be sent to every councillor and the proposal, decision, or omission referred to in the report is suspended. Council must consider the report and decide, within 21 days on the steps it is taking in response to the report.
- 3.4 This statutory duty is a personal duty, and the Monitoring Officer cannot delegate it to someone else unless they are ill or away, or otherwise unable to act, in which case the Deputy Monitoring Officer, can take over the role.
- 3.5 The Monitoring Officer also has a range of functions relating to the conduct of councillors. These include the arrangement of local investigations into Member conduct at both District and Parish level, and the provision of advice to District and Parish Councillors on the Members' Code, and the establishment and maintenance of the Register of Members' Interests.
- 3.6 The Monitoring Officer will also report on any findings of maladministration by the Local Government Ombudsman.
- 3.7 A full list of statutory functions is contained within the Appendices of the Constitution (Appendix 12 refers)
- 3.8 The District Council has also delegated a number of non-statutory functions to the Monitoring Officer, as detailed in Part IV – Page 37. (<https://democracy.west-lindsey.gov.uk/documents/s23400/Part%20IV%20Responsibility%20for%20Functions.pdf> )

#### **4. Proposed Recommendations**

It is recommended that

- (a) In accordance with the terms of Part I, 5 of the Local Government and Housing Act 1989 (as amended) and all subsequent related legislation, Mrs Emma Redwood, Assistant Director for People and Democratic be appointed as the Council's Monitoring Officer, with immediate effect.
- (b) The Constitution be amended, as necessary, to reflect this revised appointment.