

**Report to:** Full Council

**Date:** 22 February 2023

**Title:** Appointment of Monitoring Officer

**Report of:** Robert Cottrill, Chief Executive

**Ward(s):** All

**Purpose of report:** To seek approval of the proposed new Monitoring Officer.

**Officer recommendation:** That Council approve the appointment of Simon Russell as Monitoring Officer with effect from 1 April 2023.

**Reasons for recommendations:** The current Monitoring Officer steps down from this position on 31 March 2023.

**Contact Officer(s):** Name: Robert Cottrill  
Post title: Chief Executive  
E-mail: [robert.cottrill@lewes-eastbourne.gov.uk](mailto:robert.cottrill@lewes-eastbourne.gov.uk)  
Telephone number: 01323 415002

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## **1 Introduction**

1.1 The current Monitoring Officer (MO), Oliver Dixon, takes flexible retirement on 31 March 2023, after which his legal role with the Council will no longer include MO functions. A replacement MO needs to be appointed with effect from 1 April 2023.

## **2 Proposed Appointment**

2.1 It is proposed that Simon Russell, who has been the Council's Deputy Monitoring Officer since November 2020, be appointed as Monitoring Officer from 1 April 2023.

2.2 The Chief Executive has discussed the proposed appointment with Simon Russell and is satisfied that he has the necessary experience and skills to perform the MO role effectively. He nominates him as MO and seeks Council approval.

## **3 Monitoring Officer functions**

3.1 The MO's functions are set out in article 12.3 of the Council's constitution – reproduced at Appendix 1 of this report.

## **4 Financial appraisal**

4.1 There are no financial issues associated with this report.

## **5 Legal implications**

- 5.1 Section 5 of the Local Government and Housing Act 1989 requires the Council to appoint one of its officers to the position of MO. His / her statutory role is specified in sections 5 and 5A of the 1989 Act, and in sections 29 to 32 of the Localism Act 2011.
- 5.2 Regulation 2(1) and paragraph 44 of Part I of Schedule 1 to the Local Authority (Functions and Responsibilities) Regulations 2000 provides that designation of the MO must not be a function of the executive (i.e. Leader and Cabinet). Accordingly, this function is a matter for Full Council.
- 5.3 In managing the Council's ethical standards framework, the MO also plays a key role in appointing and making optimal use of the Council's 'independent persons', statutory positions held under section 28(7) of the Localism Act 2011.

## **6 Risk management implications**

- 6.1 Failure to appoint a replacement MO would represent a failure to comply with the legal duties referred to in paragraph 5.1 above and render the Council liable to judicial review proceedings. It would also represent a serious failure of governance, given the MO's role in advising the Chief Executive and directors of any actual or potential non-compliance with legislation or policy.

## **7 Equality analysis**

- 7.1 The proposal in this report involves the recommended appointment of the most suitable in-house officer based on experience and capability.

## **8 Appendices**

- 8.1 Appendix 1 – Monitoring Officer (MO) functions