

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

20 NOVEMBER 2017

1. MONITORING OFFICER PROVISION

Report of the Chief Fire Officer.

RECOMMENDED

- 1.1 THAT the Authority note the appointment of Monitoring Officer provision through Local Government Shared Services (LGSS) Law Services.
- 1.2 THAT the Authority approves the Clerk to the Authority to make the changes required to the constitution and Monitoring Officer Memorandum of Understanding (MOU).

2. PURPOSE OF REPORT

This report is submitted to inform the Authority regarding the appointment of the Monitoring Officer from 26th September 2017.

3. BACKGROUND

- 3.1 As set out in the Local Government and Housing Act 1989 (Section 5) and the Local Government Act 2000 (Schedule 5), a Monitoring Officer is a statutory role and has the specific duty to ensure an Authority, its officers and its elected members, maintain the highest standards in all that they do.
- 3.2 The purpose of the Monitoring Officer role is to enable the safeguarding, as far as possible, of members and officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

- 3.3 Since the formation of the Authority in 1985, the role of Monitoring Officers and Democratic Services for the Authority have been provided through Sandwell Metropolitan Borough Council (MBC).
- 3.4 During 2016/2017 the then Monitoring Officer for the Authority left the employment of Sandwell MBC and the role of Monitoring Officer was temporarily assumed by the Deputy Monitoring Officer. This role continued to be maintained through Sandwell MBC and continued to meet the requirements of the Memorandum of Understanding agreed for provision of a Monitoring Officer. This temporary arrangement was put in place mid Authority year with the intention for review at the June 2017 Annual General Meeting (AGM).
- 3.5 A review of this provision was undertaken to determine the best way forward in ensuring this statutory role was provided for, against the context of our developing strategy and route to future governance change. Members considered a paper at the June 2017 AGM which set out three options for Monitoring Officer provision, with one option proposed as a 'preferred option'. The options were as follows:
- Option 1:** Maintaining current Monitoring Officer provision through Sandwell MBC.
- Option 2:** Monitoring Officer provided through a constituent member of the West Midlands Combined Authority – Wolverhampton City Council.
- Option 3:** Independently sourced Monitoring Officer provision.
- 3.6 Whilst each of the options would have provided the Authority with a Monitoring Officer resource that met the statutory requirements of the role, each option was considered in the context of the key requirements, risks and opportunities as set out in the 26 June AGM 2017 Authority report.

- 3.7 Members approved option 2 with the intent of implementing this change in September 2017, therefore concluding Monitoring Officer arrangements with Sandwell. Whilst arrangements were put in place to commence this new provision, due to unforeseen circumstances, Wolverhampton City Council informed were unable to provide the Monitoring Officer role.
- 3.8 Members were informed of this by the Chair to the Authority during an Extraordinary Executive Committee Meeting on 7 August 2017, with a view to determining a way forward in securing Monitoring Officer provision. Members would be informed of progress at the Authority meeting held on the 20 November 2017 meeting.
- 3.9 Following a further review of the options provided above and discussions between the Chair, CFO and Clerk, the Authority has commenced Monitoring Officer arrangements with LGSS Law, aligned to option 3.
- 3.10 LGSS Law Ltd is a law firm specialising in the public sector. It was formed by Northamptonshire County Council, Cambridgeshire County Council and Central Bedfordshire Council legal services departments. LGSS Law Ltd has innovative and professional teams of lawyers, providing cost-effective legal advice and assistance to a range of public and not for profit sector clients including Fire and Rescue Authorities."
- 3.11 This move has enabled the benefits of option 1 to be exploited and specifically has enabled the Authority to retain continuity in services as the individual providing the Monitoring Officer role over the past 12 months will remain in role. This retains the organisational knowledge which has been built over the past 12 months. This is critical to supporting the Authority through the next 12–24 months in the achievement of its strategic direction and importantly the effective progression of governance change.

3.12 Legislation provides for a Deputy Monitoring Officer (DMO) role to be appointed should the Monitoring Officer of an Authority not be able to carry out their duties. LGSS Law specialise in local authority governance and as such, will be able to provide a DMO provision for the Authority in the event the Monitoring Officer is not able to carry out this function. The expertise that the LGSS Law provides will offer progressive support to the Authority aligned to expectations both internally and externally around the transformation of services aligned to The Plan and governance change.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required.

The matters contained in this report will not lead to a policy change.

5. **LEGAL IMPLICATIONS**

5.1 This report enables the Authority to meet the legislative requirements of the statutory role of Monitoring Officer, as set out in the Local Government and Housing Act 1989 and the Local Government Act 2000.

6. **FINANCIAL IMPLICATIONS**

6.1 The Monitoring Officer provision through LGSS Law will incur costs of £15,000 per annum which will be met from the Authority's Corporate Management budget provision.

6.2 The service through LGSS law incorporates two days dedicated support per month from the Monitoring Officer, the provision of a deputy Monitoring Officer when required and access to governance expertise and advice.

6.3 This additional specialised support will provide the Authority with guidance during the period of transformational change.

BACKGROUND PAPERS

Review of the Monitoring Officer provision Authority Report 26 June 2017

The contact name for this report is Karen Gowreesunker, Clerk to the Authority, telephone number: 0121 380 6678.

PHIL LOACH
CHIEF FIRE OFFICER