

SLOUGH BOROUGH COUNCIL

Report To: Council
Date: 22nd September 2022
Contact Officer: Sarah Wilson, Monitoring Officer
Ward(s): All

PART I **FOR DECISION**

APPOINTMENT OF RETURNING OFFICER AND MONITORING OFFICER

1. Summary and Recommendations

1.1 This report sets out arrangements for the appointment to two statutory roles.

Recommendations:

Council is recommended to:

- a) Approve the designation of the statutory post of Returning Officer, Acting Returning Officer and Electoral Registration Officer to the role of Chief Operating Officer;
- b) Note the decision by the commissioners to appoint and designate Stephen Taylor as Monitoring Officer from 1 October 2022.

Reason: The Council is required to have officers in place to cover the above statutory roles.

Commissioner Review

"The recommendations are supported."

2. Report

Introductory paragraph

2.1 Effective, transparent, and equitable democratic and decision-making processes are an essential pre-requisite to the delivery of all the Council's priorities.

Options considered

With regard to recommendation a) (designation of Returning Officer, Acting Returning Officer and Electoral Registration Officer) there are three main options:

1. Chief Executive
2. Chief Operating Officer ('COO') (recommended)
3. Monitoring Officer

The Council is required to have in place officers to cover the above statutory roles. By designating the roles of Returning Officer, Acting Returning Officer and Electoral Registration Officer to an existing role, this means that the role attaches to the post, even if the post holder changes.

Previously in Slough the Returning Officer, Acting Returning Officer and Electoral Registration Officer roles were designated to the Chief Executive. However, this is not recommended in the current circumstances for reasons of capacity and focus; the current chief executive is part-time and also fulfilling the role of Assistant Commissioner, with a challenging improvement brief in both roles. Alternatively the role could be fulfilled by the new interim Monitoring Officer, but as he is working part-time and is to be employed on an agency arrangement, this does not provide the same level of stability as if the Chief Operating Officer role fulfilled the function. The Chief Operating Officer is a full time, permanent post holder. The current Chief Operating Officer has Electoral Services within their management span and the post holder is an experienced ex-chief executive who has fulfilled these electoral roles in the past. The Monitoring Officer, who also has significant experience in these roles, will be reporting to the Chief Operating Officer and will be able to support them in this. Both the Chief Executive and Monitoring Officer will have key roles to play in the election process, but it is recommended that the responsibility sits with the current Chief Operating Officer as a full time, permanent post holder.

Background

2.2 The Council has agreed to move to a four yearly all out election cycle from May 2023. In addition, it is in the process of a local government boundary review and will in time be reviewing its polling districts and places. This is a major change to the election processes in Slough. It is therefore imperative that the Council has sufficient resources in place to deliver a lawful and fair election and this requires an experienced officer to lead the process.

2.3 The post of Chief Operating Officer was created as part of the senior officer restructure and this post holder will be responsible for the corporate operations services, excluding those sitting in the finance and commercial and strategy directorates. This includes the governance services and specifically the elections team.

2.4 Stephen Brown was recruited to the post of COO and has been working with senior officers and members on the improvement and recovery plans. He is an experienced local government professional and an ex-chief executive of a district council. He is held the role of Returning Officer and is experienced in election management. He will be assisted by senior officer capacity, including the new interims covering the monitoring, governance and scrutiny functions, as well as an experienced elections team.

2.5 The report also asks Council to note the decision by the commissioners to appoint Stephen Taylor and to designate him as the Council's Monitoring Officer. The designation will take effect from 1 October 2022, although Stephen may commence work earlier to ensure an effective handover. The Principal Lawyer from HB Public Law will remain designated as Monitoring Officer until this date and has agreed to deputise for Stephen as required and to continue to be the lead lawyer and attend the corporate leadership team to support the improvement and recovery work. Stephen Taylor will be employed on an agency basis for 3 days a week at an agreed daily rate.

2.6 Whilst the decision to designate an officer as the monitoring officer is normally a decision for full council, the power to appoint and dismiss the three statutory governance officers is covered by the DLUHC statutory direction. Stephen Taylor was interviewed by members of the Appointments Sub-Committee and this committee made a recommendation to the commissioners that he be appointed on an interim basis for 3 days a week.

3. Implications of the Recommendation

3.1 *Financial implications*

3.1.1 The interim monitoring officer is budgeted for up to 2 years as previously reported through the management restructure.

3.1.2 The position of Returning Officer carries with its fees which are determined from time to time in accordance with the Returning Officers Fees Order. The payment of fees for local elections are met by the Council and the payment of fees for parliamentary elections are met by central Government. There are no additional financial implications arising from designation of the Returning Officer, Acting Returning Officer and Electoral Registration Officer to the COO role.

3.2 *Legal implications*

3.2.1 The Returning Officer (local elections) and Acting Returning Officer (parliamentary elections) have statutory responsibilities in relation to the running of elections and the Electoral Registration Officer has statutory responsibility in relation to registration of electors. Section 35(1) of the Representation of the People Act 1983 requires the Council to appoint one of its officers to the role of Returning Officer. A Returning Officer is personally responsible for the administration of local government elections and for ensuring that the experience of voters and those standing for election is a positive one.

3.2.2 The designation of a Monitoring Officer is a statutory requirement under Section 5 of the Local Government & Housing Act 1989. The Council has the right to designate and appoint the Monitoring Officer. Appointment of a Monitoring Officer would normally be a decision reserved to elected members in accordance with Part 4.7 of the Council's Constitution. However, under a statutory direction made by the Secretary of State for Levelling-Up, Housing and Communities, certain functions are to be exercised by the appointed commissioners, either acting alone or jointly. This includes the function to appoint to the position of Monitoring Officer and to determine the terms and conditions of employment of such an officer.

3.2.3 The Secretary of State confirmed an expansion of the directions on 1st September 2022 to enable commissioners to exercise the following additional function: "All functions to define the officer structure for the senior positions, to determine the recruitment processes and then to recruit the relevant staff to those positions." Senior positions are defined as direct reports to the Chief Executive, their direct reports, and their Group Managers – tiers one, two and three.

3.3 *Risk management implications*

3.3.1 The posts of Monitoring Officer and Returning Officer are statutory posts. The former plays a key role in ensuring effective corporate governance. As the Council

continues its improvement journey, it is important that there is sufficient capacity and expertise in place to fulfil these functions.

3.3.2 The Council has a whole council election next year, following a local government boundary review. Significant election planning will be needed to ensure that those entitled to vote have an opportunity to register and registered electors are enfranchised to vote and understand the changes in next year's election compared to previous elections. It will also be important to ensure an effective count process, both to ensure a lawful result and to give confidence to candidates and their agents that the process was fair and transparent.

3.4 Environmental implications

3.4.1 There are no environmental implications arising from this report.

3.5 Equality implications

3.5.1 Both statutory post holders should take account of the Council's duties under the Equality Act 2010. This will be particularly relevant when planning for the election. The Council and the Returning Officer are bound by the requirements of the Equality Act 2010. This will include considerations in relation to reasonable adjustments to enable voters with disabilities to vote.

4. Appendices

Appendix 1 - Decision of Best Value Commissioners dated 12th September 2022

5 Background Papers

None