

FOR PUBLICATION

Bedfordshire Fire and Rescue Authority
8 September 2022

REPORT AUTHOR: CHIEF FIRE OFFICER ANDREW HOPKINSON

SUBJECT: APPOINTMENT OF MONITORING OFFICER

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Background Papers: 20th July 2022 FRA report on Resourcing the Monitoring Officer Position Options

Implications (tick ✓):

LEGAL		✓	FINANCIAL	✓
HUMAN RESOURCES		✓	EQUALITY IMPACT	
ENVIRONMENTAL			POLICY	
CORPORATE RISK	Known	✓	OTHER (please specify)	
	New			

Any implications affecting this report are noted at the end of the report.

PURPOSE:

To appoint a Monitoring Officer for Bedfordshire Fire and Rescue Authority in order to comply with section 5 of the Local Government and Housing Act 1989

RECOMMENDATION:

That Members confirm the appointment of Mr Graham Britten as Monitoring Officer for Bedfordshire Fire and Rescue Authority in accordance with section 5 of the Local Government and Housing Act 1989 from the 9th September 2022.

1. Background

- 1.1 Under section 5 of the Local Government and Housing Act 1989 (as amended), the Fire and Rescue Authority has a duty to appoint a monitoring officer.
- 1.2 The Monitoring Officer has a number of statutory duties and responsibilities relating to the Fire and Rescue Authority's constitution and the arrangements for effective governance. These duties include operating and maintaining the constitution, ensuring that no decision or omission of the council is likely to give rise to illegality or maladministration and promoting high standards of conduct.

2. Statutory Powers

- 2.1 The constitution provides that it is the responsibility of the full Fire and Rescue Authority to designate the Monitoring Officer.
- 2.2 The constitution states that the Monitoring Officer is responsible for the proper administration of the Fire and Rescue Authority in accordance with all current legislation including the Local Government and Housing Act 1989, the Localism Act 2011, and the Authority's standing orders.
- 2.3 The schedule of delegated authorities delegates the following powers to the Monitoring Officer:
 - to sign on behalf of the authority any document necessary to give effect to any resolution of the Authority or decision made by an officer pursuant to the scheme.
 - To act as the proper officer of the Authority, except where legislation or the scheme name is another officer, or the Authority has specifically determined otherwise.
 - To act as solicitor to the Authority and to advise the Chief Fire Officer on the institution, defence, withdrawal or compromise of legal proceedings, whether civil and/or criminal, pertaining to the Fire Authority statutory functions in respect of the Regulatory Reform (fire safety) Order 2005, and to authorise the institution, defence, withdrawal or compromise of any other claims or legal proceedings, whether civil and/or criminal.
- 2.4 The current Monitoring Officer, John Atkinson, will be stepping down as Monitoring Officer on 9th September 2022, and retiring from post on September 30th 2022. Between 9th -30th September, John Atkinson will be designated as Deputy Monitoring Officer to provide an effective handover.

- 2.5 The Fire and Rescue Authority has conducted a full independent review of the role and responsibilities of the Monitoring Officer, the time required for the role to be delivered effectively, and options for resourcing the role. Initial discussions took place at the Member Development Day on 7th July 2022.
- 2.6 The job description, person specification, proposed time requirement and final resourcing options were presented to the Fire and Rescue Authority meeting on 20th July 2022. It was agreed to procure monitoring officer services from Graham Britten at Buckinghamshire & Milton Keynes Fire Authority, with the initial retainer specifying one day per week, with a six month review. The review will look at the effectiveness of the proposed arrangement, to include whether the time allocated for the role is sufficient, with an option to increase resource levels to 1.5 days a week if required.
- 2.7 Graham Britten has held the position of Monitoring Officer for Buckinghamshire & Milton Keynes Fire Authority since 2012. He has extensive experience at a senior level, both in providing legal support as in-house counsel and ensuring regulatory compliance and managing litigation risk as Monitoring Officer. He additionally provides monitoring officer services to Royal Berkshire Fire and Rescue Authority. With adjustments, he has capacity to deliver the required workload.
- 2.8 The contract will start from the 1st September to allow opportunity for a handover from the existing Monitoring Officer. It is proposed that Graham Britten be designated Deputy Monitoring Officer from 1st – 8th September 2022, and be designated Monitoring Officer from 9th September 2022.

3. Financial Implications

- 3.1 The Fire and Rescue Authority agreed the fee for the purchase of Monitoring Officer services from Buckinghamshire & Milton Keynes Fire Authority at the meeting of 20th July 2022. The fee is dependent on the outcome of the pay review as it is directly linked to the salary of the post holder.

4. Legal Implications

- 4.1 Appointing a Monitoring Officer will fulfil the Authority's duty under section 5 of the Local Government and Housing Act 1989. An individual can be appointed as a statutory officer by the Authority without the individual being one of its employees (Per the judgment of the High Court in Pinfold North Limited v Humberside Fire Authority [2010] EWHC 2944 (QB)) when considering the position in respect of a combined fire and rescue authority's duty to appoint a Chief Finance Officer under section 112 Local Government Finance Act 1988.

5. Risk

5.1 The Authority has a statutory duty to appoint a Monitoring Officer. Making the appointment as suggested in this report will ensure that the Authority meets these duties throughout.

6. Conclusion

6.1 Members are asked to appoint Graham Britten as Monitoring Officer for the Fire and Rescue Authority from 9th September 2022.

ANDREW HOPKINSON
CHIEF FIRE OFFICER