

Committee: Full Council

Date: 17 May 2023

Wards: All

Subject: Recruitment of Monitoring Officer

Lead officer: Hannah Doody, Chief Executive

Lead member: Councillor Ross Garrod, Leader of the Council and Chair of the Appointments Committee

Contact officer: Liz Hammond, Interim Head of HR

Recommendations:

- A To agree (on the recommendation of the Standards and General Purposes Committee) to delegate the appointment of the Managing Director, South London Legal Partnership (who will also be the Council's Monitoring Officer) to the Appointments Committee.
- B. To agree that the appointment will be at management grade 5 which currently ranges from £100,218 to £104,637, together with such market supplement as the Chief Executive, in consultation with the Chair of Appointments Committee, considers necessary to secure a good appointment.

1. Purpose of report and executive summary

- 1.1 The Council's pay policy statement requires that remuneration packages over £100k have approval of full council. This report seeks authority to recruit to an important post at a level above that amount and to delegate the decision on the appointment to that post to the Appointments Committee.

2. Details

- 2.1 The current Managing Director, South London Legal Partnership will leave the post in July 2023. That post is designated as the Council's Monitoring Officer. It also performs the role of Assistant Director of Governance for Merton, responsible for democratic services and elections, as well as information governance and acting as the client function for the shared audit and fraud partnership. A recruitment process is currently underway, and it is hoped that this will conclude in early June 2023.
- 2.2 Under the Officer Employment Procedure Rules forming part 4H of the Constitution the appointment of the Monitoring Officer is a matter for full Council. However, as the Appointments Committee is expected to sit in the first week in June and there is not another full council meeting until 12 July, the Standards and General Purposes Committee agreed at its meeting on 27 April to recommend to Council that on this occasion, the decision on the appointment be delegated to the Appointments Committee which is a cross party committee. It is not a legislative requirement that the appointment of the monitoring officer be reserved for full council.
- 2.3 The role is graded management grade 5, for which the current salary ranges from annual salary of £100,218 to £104,637. When the role was last appointed to in December 2019, it was agreed that a market supplement of up to £30,000 should apply. This was in light of the advice of the executive

search agency Penna PLC who have also been retained to assist with the recruitment process on this occasion. Since 2019, the market for Monitoring Officers has become even more limited and Penna advise that it may be necessary to increase the market supplement element to attract a good candidate. They also point out that the role has responsibility for a shared legal service working for 5 councils which brings an added level of responsibility and complexity. By contrast, the London Borough of Islington is currently advertising for a director of law and governance at circa £130,000. That role would appear to be very similar to the monitoring officer and assistant director function for Merton but without the added responsibility for a five-borough service.

- 2.4 Accordingly this report seeks authority to recruit to this post at the current grade which is in excess of £100,000 with the current market supplement of £30,000, and also to agree to delegate some flexibility to the Chief Executive in consultation with the Chair of the Appointments Committee to offer an increased market supplement if an exceptional candidate is found during the recruitment process.
- 2.5 The required approval is in line with the requirements of the Council's pay policy statement. The decision of the Appointments Committee on the appointment and the salary agreed by the Chief Executive will be reported to July Council for information.

3. Alternative options

- 3.1 Council could choose not to offer the salary and flexibility referred to above, but the advice received from Penna is that it is unlikely to be able to recruit to the post if that is the case. The Council is statutorily required to appoint a monitoring officer.
- 3.2 If the Council chooses not to delegate the decision on the candidate to the Appointments Committee, this may lead to a gap in excess of 3 months between the departure of the current postholder and the coming into post of her successor, as that person may be reluctant to take the role prior to their status as monitoring officer being confirmed. This would not be ideal.

4. Consultation undertaken or proposed

- 4.1 It is proposed that the appointment of the Managing Director, South London Legal Partnership and Monitoring Officer is delegated to the Appointments Committee. The appointment process will also include a stakeholder panel including representatives from all five Boroughs which form the South London Legal Partnership.

5. Timetable

- 5.1 Recruitment to the post of Managing Director, South London Legal Partnership has commenced and is expected to be completed in June 2023.

6. Financial, Resource and Property Implications

- 6.1 There is provision in existing budgets for the role at the salary set out in this report. 75% of the salary is split between the South London Legal Partnership Boroughs through the hard charging model agreed between

them. At present, 12.5% is met directly by Merton, in recognition of the monitoring officer and assistant director role provided directly to it and a further 12.5% by the London Borough of Richmond as the current postholder is also their monitoring officer. However, Richmond have indicated that they intending to appoint the monitoring officer employed by Wandsworth as this reflects the wider shared staffing arrangement between those councils. Provision will be made for this lost income within the shared legal services budget.

7. Legal and statutory implications

- 7.1 The Council's pay policy statement requires that recruitment packages over £100k have approval of full council.

8. Human rights, equalities and community cohesion implications

- 8.1 The contents of this report are designed to ensure that the Council's processes are human rights and equalities compliant.

It is unlawful to discriminate on grounds of gender, race, disability, age, religion and belief and sexual orientation. This refers to both direct and indirect discrimination. In effect the process has to be evaluated against three tests (1) intention (2) method (3) effect. Where there is an **intention** to discriminate on any of the prohibited grounds, this would be unlawful. Where there is no such intention but the recruitment **methods** used are discriminatory, then the outcome may be open to challenge. Where the intention and method are sound, but the **effect** is shown to have disproportionate effect on a particular category of applicant then the outcome may be open to challenge.

9. Crime and Disorder Implications

- 9.1 None

10. Risk management and health and safety implications

- 10.1 None

11. Appendices – the following documents are to be published with this report and form part of the report

- 11.1 None

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