

Report to **National Park Authority**
Date **9 July 2024**
By **Chief Executive Officer (Interim)**
Title of Report **Appointment of the Monitoring Officer**
Decision

Recommendation: The Authority is recommended to:

- 1. Appoint Richard Sandiford, Head of Governance, as Monitoring Officer for the South Downs National Park Authority with effect from the end of this meeting of the Authority thereby terminating the current appointment of Louise Read to this role.**
 - 2. Approve the Monitoring Officer Protocol at Appendix I which sets out the role and statutory responsibilities of the Monitoring Officer.**
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1. Introduction

- 1.1 The National Park Authority must, under section 5 of the Local Government and Housing Act, appoint a Monitoring Officer.
- 1.2 The Monitoring Officer is a statutory post and, as with the two other statutory posts of Chief Executive and Chief Finance Officer, this appointment must be made by the full Authority.
- 1.3 The role of Monitoring Officer has been filled by Louise Read from Hampshire County Council (HCC) since 1 October 2014. Noting the increased governance work for Louise at HCC and the internal governance capacity available within SDNPA, HCC approached the NPA to propose alternatives for delivery of the MO role and officers have been discussing this for a number of months.
- 1.4 Given the time since the Authority last considered this matter, a review of best practice in the sector and what would be in the best interests of the Authority was undertaken. This matter was discussed in some depth at a series of meetings of the Committee Chairs and the Senior Leadership Team earlier in the year. Work undertaken subsequently has led to the recommendation within this report to the Authority.

2. Policy context

- 2.1 The requirement to appoint a Monitoring Officer, and the functions of the Monitoring Officer, are set out in section 5 of the Local Government and Housing Act 1989 (section 5) (S5 LGHA 1989), as amended by schedule 5, paragraph 24 of the Local Government Act 2000.
- 2.2 The responsibilities of the Monitoring Officer role include:
 - to report on matters he or she believes are, or are likely to be, illegal or amount to maladministration;

- to be responsible for matters relating to the conduct of members and officers, including investigations into allegations about the conduct of Members;
- to be responsible for the operation of the Authority’s “constitution”; and,
- a requirement to appoint a deputy Monitoring Officer.

2.3 There is a restriction on the appointment of the Monitoring Officer in that the Monitoring Officer may not be the Authority’s Chief Financial Officer.

3. Issues for consideration

3.1 The Authority has outsourced the provision of its Monitoring Officer function to HCC since the establishment of the Authority in April 2010. The services provided by the two officers who have fulfilled this role over this period have served the Authority well in establishing strong governance processes and providing high quality advice to both Members and officers.

3.2 The role of Monitoring Officer has been filled by Louise Read from Hampshire County Council (HCC) since 1 October 2014. Noting the increased governance work for Louise at HCC and the internal governance capacity available within SDNPA, HCC approached the NPA to propose alternatives for delivery of the MO role and officers have been discussing this for a number of months.

3.3 Following a review of best practice in the sector and whether the interests of the Authority would continue to be best served by outsourcing the provision of the Monitoring Officer function or by bringing this role in house, it is considered beneficial for the Authority going forward, and reflective of best practice, for this role to be fulfilled by an officer of the Authority.

3.4 This review was undertaken alongside the release of a report in November 2023 from the Local Government Information Unit with Lawyers in Local Government (LLG) and the law firm Browne Jacobson on the “Changing Role of the Monitoring Officer”. This report highlighted, amongst other things, the importance of having the Monitoring Officer embedded within an organisation to support good governance and be aware at the start of new initiatives or approaches and to advise where necessary. It also identified an advantage in enabling the Monitoring Officer to build positive relationships with officers across the Authority so that the role of the Monitoring Officer better understood, better respected, and more approachable and accessible.

3.5 The role being fulfilled by an officer of the Authority is therefore considered important to support closer working relationships between the Monitoring Officer and other officers of the Authority, in particular to support the early and proper consideration of matters and potential risks by the statutory officers where the Authority aims to experiment or be innovative in its service delivery or where it may look to undertake new activities. It promotes a closer working relationship between the three statutory officers of the Authority. It would also support the Monitoring Officer’s involvement in discussions and decision making at the highest level; not just through the formal avenues such as Authority and committee meetings, but also the less-formal routes such as meetings of Committee Chair and the Senior Leadership Team and the Operational Management Team in addition to ‘water-cooler’ discussions with senior colleagues, all of which enhance the ability of the Monitoring Officer to effectively fulfil their role.

3.6 It is proposed that the role of Monitoring Officer be integrated with the Authority’s Head of Governance role. To that end, it is recommended that Richard Sandiford, the Authority’s current Head of Governance, be appointed as Monitoring Officer for the SDNPA with effect from the end of this meeting of the Authority. I am satisfied, after discussion with the current Monitoring Officer and my assessment, that he has the necessary experience and skills to perform the role of Monitoring Officer effectively.

3.7 Whilst under this arrangement HCC would no longer provide the Authority with a Monitoring Officer, it is proposed that the Authority would continue to employ the services of HCC in the provision of specialist legal advice and of a Deputy Monitoring Officer to the Authority. This is in line with the Authority’s approach to specialist legal advice in other

areas of its works (i.e. planning, procurement, HR) which is provided through a contract with West Sussex County Council. This would also allow the Authority to access advice from Louise Read or other colleagues as employees of HCC’s Legal Services Team.

4. Options and cost implications

- 4.1 It is recommended that the Authority appoint an officer of the Authority to this role, as set out in the recommendation. It does however remain open to the Authority to choose an alternative route to fulfil the Monitoring Officer functions, which could be through an externally serviced contract. Should the Authority decide to pursue this approach to the Monitoring Officer function, Louise would remain the Monitoring Officer until the next meeting of the Authority in October 2024 to allow negotiations to take place as necessary in order for an appropriate person to take over the role of Monitoring Officer from the current arrangements.
- 4.2 There are no cost implications associated with the recommendation as the provision of the Monitoring Officer is provided for in the Authority’s budget. Any alternative proposal may have greater cost implications.

5. Next steps

- 5.1 Should the Authority agree the recommendation to appoint Richard Sandiford, Head of Governance, as the Monitoring Officer he will take up the role once this meeting of the Authority has ended.

6. Other implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No.
Does the proposal raise any Resource implications?	No. The provision of the Monitoring Officer is provided for in the Authority’s budget.
How does the proposal represent Value for Money?	The Monitoring Officer is a statutory role that the Authority is required to have a person appointed to at all times. It is key to ensuring the good governance of the Authority.
Which PMP Outcomes/ Corporate plan objectives does this deliver against	The role of Monitoring Officer supports the SDNPA’s ability to deliver against all PMP Outcomes and Corporate Plan Objectives.
Links to other projects or partner organisations	Hampshire County Council
How does this decision contribute to the Authority’s climate change objectives	The role of Monitoring Officer supports the good governance of the Authority in the delivery of its climate change objectives.
Are there any Social Value implications arising from the proposal?	None directly arising from this report
Have you taken regard of the South Downs National Park Authority’s equality duty as contained within the Equality Act 2010?	Yes. There are no equality issues raised by this report. The recommendation involves the appointment of the most suitable in-house officer based on experience and capability.

Implication	Yes*/No
Are there any Human Rights implications arising from the proposal?	None directly arising from this report
Are there any Crime & Disorder implications arising from the proposal?	None directly arising from this report
Are there any Health & Safety implications arising from the proposal?	None directly arising from this report
Are there any Data Protection implications?	None directly arising from this report.

7. Risks Associated with the Proposed Decision

- 7.1 Not having a Monitoring Officer appointed would represent a failure of the Authority to comply with a statutory obligation as set out in paragraph 2.1 of this report.

TIM SLANEY

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South Downs National Park Authority

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 Appendix I. Monitoring Officer Protocol
 SDNPA Consultees Director of Planning; Chief Finance Officer; Monitoring Officer.
 External Consultees None
 Background Documents None

SOUTH DOWNS NATIONAL PARK AUTHORITY MONITORING OFFICER PROTOCOL



1. Statutory Responsibilities

- 1.1 The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged.
- 1.2 The role of the Monitoring Officer rests with the Head Governance.
- 1.3 A summary list of the Monitoring Officer's responsibilities is set out in section 5 of this protocol.
- 1.4 The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
 - a) complying with the law (including any relevant Codes of Conduct);
 - b) complying with any general guidance, codes or protocols issued from time to time by the Monitoring Officer or the Appointment, Management and Standards Committee;
 - c) making lawful and proportionate decisions;
 - d) generally, not taking action that would bring the Authority, their offices or professions into disrepute; and,
 - e) communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters.

2. Working Arrangements

- 2.1 The Monitoring Officer will discharge the duties and responsibilities with balanced determination, without fear or favour, and in a manner that enhances the overall reputation of the Authority. In discharging these duties and responsibilities the Monitoring Officer is assisted by the Deputy Monitoring Officer (from Hampshire County Council), legal services colleagues (from West Sussex County Council), and the Senior Governance Officer.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers, including the Senior Leadership Team, are designed to ensure the effective discharge of the Authority's business and functions. The Monitoring Officer will:
 - a) be alerted by Members and Officers to any issue(s) that may become of concern and risk, including, issues around legal powers and duties, ethical standards, probity, propriety and procedural or other constitutional issues that arise or are likely to arise;
 - b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Authority, its committees, and of the Senior Leadership Team at which a binding decision of the Authority may be made (including a failure to take a decision where one should have been taken);
 - c) have the right to attend any meeting of the Authority and its committees (including the right to be heard) before any binding decision is taken by the Authority (including a failure to take a decision where one should have been taken);
 - d) ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that arise or are likely to arise;
 - e) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that arise or are likely to arise;

- f) have a relationship of respect and trust with the Chair and Deputy Chair of the Authority with a view to ensuring the effective and efficient discharge of Council business and, as necessary, brief them on relevant legal, ethical standards, probity, propriety, procedural or other constitutional issues that arise or are likely to arise;
- g) have the right to independently raise with the Chair and Deputy Chair any matters of serious concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that arise or are likely to arise
- h) report to the Authority, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Finance Officer;
- i) maintain and keep up-to-date relevant statutory registers for the declaration of Members' interests, gifts and hospitality
- j) be available for Members and Officers to consult on any issues of the Authority's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements;
- k) give advice to the Authority and the relevant committee/s on matters relevant to the Member standards;
- l) provide training for Members on ethical standards and the Member Code of Conduct;
- m) in carrying out any investigation(s) have unqualified access to any information held by the Authority and to any Member or officer who can assist in the discharge of their functions;
- n) have sufficient resources to enable them to address any matters concerning the Monitoring Officer function and, in accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources they require to discharge their statutory functions;
- o) appoint a deputy and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer.

3. Relationships

- 3.1 Having excellent working relationships with Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer and in maintaining high standards of conduct, governance and legal compliance. A flow of relevant information and access to discussions and debate, particularly at the early stages of decision-making, will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 3.2 To ensure that high standards of corporate governance and probity are maintained throughout the Authority the Monitoring Officer will develop and maintain effective working relations with:
 - a) The Head of Paid Service (the Chief Executive Office);
 - b) The Chief Finance Officer;
 - c) Directors of the Authority
 - d) All Members of the Authority, in particular, the Chair and Deputy Chair of the Authority;
 - e) The External Auditor and the Internal Auditor;
 - f) The Local Government and Social Care Ombudsman;
- 3.3 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer are all statutory appointments with a duty to consult each other.

4. Summary of Monitoring Officer Functions

	Description	Source
1.	Report to the Authority on contraventions or likely contraventions of any enactment or rule of law.	Section 5 of the Local Government and Housing Act 1989.
2.	Report to the Authority any maladministration or injustice where the Ombudsman has carried out an investigation.	Section 5 of the Local Government and Housing Act 1989.
3.	Report to the Authority on resources required to carry out functions.	Section 5 of the Local Government and Housing Act 1989.
4.	Appointment of Deputy Monitoring Officer.	Section 5 of the Local Government and Housing Act 1989.
5.	Arranging for Members to sign the undertaking to abide by the Code of Conduct before taking up their appointment with the Authority.	Authority procedure
6.	Arrange for Members to notify the Monitoring Officer of any disclosable pecuniary, personal or prejudicial interests within 28 days of becoming a Member of the Authority	Section 30 of the Localism Act 2011 and Members' Code of Conduct.
7.	Arrange for Members to notify the Monitoring Officer of any disclosable pecuniary, personal or prejudicial interests within 28 days of becoming aware of any new interest or change in any interest registered.	Member's Code of Conduct
8.	Maintain the Registers of Members' Interests and Gifts and Hospitality.	Section 29 of the Localism Act 2011 and Members' Code of Conduct.
9.	Advice to Members on the Code of Conduct.	Authority procedure
10.	Provide advice to the Authority and its committees on the standards framework and its application.	Authority procedure
11.	Investigate and report on allegations of misconduct under the code of conduct	Authority procedure
12.	Appoint a person to investigate and report on allegations of misconduct under the code of practice.	Authority procedure
13.	Arrange relevant hearings to consider reports from the Monitoring Officer, or other Investigating Officer, on allegations of misconduct by a member.	Authority adopted procedure
14.	Promote and maintain high standards of conduct through support to the Authority and its committees.	Chapter 7 – Standards Localism Act 2011
15.	Make payments of compensation for maladministration.	Section 92 of the Local Government Act 2000.
16.	Provide Advice to members on vices issues, maladministration, probity and policy framework, financial impropriety and budget issues in consultation with the Chief Finance Officer.	DCLG guidance.
17.	Investigating complaints against a Member not covered by the Code of Conduct.	Authority procedure.

