



**Open Report on behalf of Debbie Barnes OBE, Chief Executive**

Report to:	<b>County Council</b>
Date:	<b>1 December 2023</b>
Subject:	<b>Designation of Monitoring Officer</b>

**Summary:**

This report seeks approval for a change in designation of Monitoring Officer following the announcement that the current Monitoring Officer will leave his employment with the Council on 8 April 2024.

**Recommendation(s):**

- 1) That Council with effect from 1 December 2023 designates William Bell as the Council's Monitoring Officer.

## **1. Background**

- 1.1 The Council's current designated Monitoring Officer, David Coleman, will leave his employment with the Council on 8 April 2024. On 13 November 2023, William Bell commenced employment with the Council as successor to David Coleman and to aid a smooth transition of responsibilities it is proposed that William Bell be designated as the Council's statutory Monitoring Officer with effect from 1 December 2023.
- 1.2 Under section 5 of the Local Government and Housing Act 1989 ('Act') the Council has an obligation to designate one of its officers as the Council's Monitoring Officer to fulfil the responsibilities under section 5 and 5A of the Act to report unlawfulness or maladministration in the exercise of the Council's functions. The Monitoring Officer also has a role both in law and under the Council's Constitution in supporting the Council in maintaining high standards of conduct and managing complaints against elected members under the Council's Code of Member Conduct.

## 2. Legal Issues:

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

There are not considered to be any equality implications arising from the recommendations set out in this report.
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Joint Strategic Needs Assessment (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

There are not considered to be any JSNA or JHWS implications arising from the recommendations set out in this report.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There are not considered to be any crime or disorder implications arising from the recommendations set out in this report.

**3. Conclusion**

This report enables the Council to comply with its legal obligations.

**4. Legal Comments:**

The Council is required by law to designate one of its officers as Monitoring Officer and this report seeks to fulfil that legal obligation. Under the Council's Constitution, such designation is a matter reserved to full Council.

**5. Resource Comments:**

The recommendations within this report can be met from within existing service budgets.

**6. Consultation**

a) **Has Local Member Been Consulted?** N/A

b) **Has Executive Councillor Been Consulted?** N/A

c) **Scrutiny Comments**

The proposals set out in this report have not been considered by a Scrutiny Committee.

**d) Risks and Impact Analysis**

Please note the contents of the report and the legal basis for the recommendation being proposed.

**7. Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of the report.

This report was written by David Coleman, who can be contacted on [david.coleman@lincolnshire.gov.uk](mailto:david.coleman@lincolnshire.gov.uk)