

# **Cherwell District Council**

## **Report to Chief Executive**

**5 August 2022**

### **Urgent Decision – Appointment of Data Protection Officer**

#### **Report of Assistant Director Law, Governance and Democratic Services**

This report is public

#### **Purpose of report**

To appoint a Data Protection Officer in light of the end of the formal partnership working arrangements between Cherwell District Council and Oxfordshire County Council.

#### **1.0 Recommendations**

The Chief Executive is recommended:

- 1.1 to appoint Shahin Ismail, Interim Assistant Director Law, Governance and Democratic Services, as the Council's Data Protection Officer with immediate effect to 17 October 2022.
- 1.2 To appoint Shiraz Sheikh, Assistant Director Law, Governance and Democratic Services, as the Council's Data Protection Officer from 17 October 2022.

#### **2.0 Introduction**

- 2.1 The General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA 2018) impose a statutory requirement on Councils to appoint a Data Protection Officer.
- 2.2 The Council's current Data Protection Officer is an employee of Oxfordshire County Council (OCC), appointed pursuant to the shared working agreement entered into by Cherwell District Council (CDC) and Oxfordshire County Council pursuant to section 113 of the Local Government Act 1972.
- 2.3 In light of the decision to end the formal partnership working arrangement between OCC and CDC all joint services were reviewed. As part of this review, it was agreed that Information Governance would be fully decoupled as at 31 August 2022 with a separate provision of the service by each Council. It is therefore necessary for Cherwell District Council to appoint a CDC officer as Data Protection Officer.

### **3.0 Report Details**

- 3.1 The role of Data Protection Officer (DPO) is a statutory appointment required under the provisions of article 37 of the General Data Protection Regulations as in force in the UK (GDPR) and clause 69(1) Data Protection Act (DPA) 2018.
- 3.2 The duties of the Data Protection Officer include:
- Informing and advising the Council and its employees about their obligations to comply with the GDPR and other data protection policies and procedures,
  - Monitoring compliance with the GDPR and other data protection laws, including managing internal data protection activities; advising on the necessity of data protection impact assessments (DPIAs), the manner of their implementation and outcomes; training staff; and, conducting internal audits
  - Serving as the contact point for the Information Commissioner's Office for all data protection issues, including data breach reporting.
  - Serving as the contact point for individuals (data subjects) on privacy matters, including subject access requests.
- 3.3 DPOs must have expertise in national and European data protection law, including an in-depth knowledge of the GDPR. DPOs must also have a reasonable understanding of the organisation's technical and organisational structure and be familiar with information technologies and data security.
- 3.4 In the case of a public authority or body, the DPO should have a sound knowledge of its administrative rules and procedures.
- 3.5 The GDPR states that the designated person should be a senior post within the authority reporting to Chief Officer level, be independent from the business, with expert knowledge of the subject area and have adequate resources to meet their GDPR obligations.
- 3.6 The Monitoring Officer is the Proper Officer for Access to Information in accordance with legislation and as outlined in the Council's Constitution, reports to the Chief Executive and has overall responsibility for governance matters.
- 3.7 It is therefore proposed that Shahin Ismail, the Council's current Interim Assistant Director Law, Governance & Democratic Services & Monitoring Officer, be appointed as Cherwell District Council's Data Protection Officer with immediate effect, as the Council is approaching the decoupling deadline of 31 August 2022 and it is felt that in this transition phase, the statutory role should transfer as soon as possible. As the permanent Assistant Director Law, Governance & Democratic Services post will be filled by Shiraz Sheikh on 17 October 2022, this report seeks approval to appoint the new permanent Assistant Director Law, Governance & Democratic Services into the statutory Data Protection Officer role upon his commencement in role.
- 3.8 Following the appointment, the Data Protection Officer will be requested to appoint at least one Deputy Data Protection Officer to act in their absence.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 Along with all public authorities, Cherwell District Council is required to designate one of its officers to carry out the statutory duties of the Data Protection Officer pursuant to Articles 37-39 of the GDPR.
- 4.2 The Monitoring Officer is the Proper Officer for Access to Information and therefore, in accordance with statutory requirements, it is recommended that the Assistant Director Law, Governance and Democratic Services (with the Interim postholder holding this role until 16 October 2022 and the permanent post holder holding the role from 17 October 2022) be appointed as the Council's Data Protection Officer.

## **5.0 Consultation**

None

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To retain the current Data Protection Officer. This is rejected as the service has been decoupled and the current DPO is not a CDC employee.

Option 2: Not to appoint a Data Protection Officer. This is rejected as the Council is legally required to appoint to the statutory post.

Option 3: To appoint an alternative officer. This is rejected because Shahin Ismail and Shiraz Sheikh have the necessary skills and experience to fulfil the role.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 There are no financial implications arising directly from this report.

Comments checked by:

Joanne Kaye, Strategic Finance Business Partner, 01295 221545,  
[joanne.kaye@cherwell-dc.gov.uk](mailto:joanne.kaye@cherwell-dc.gov.uk)

### **Legal Implications**

- 7.2 The position of Data Protection Officer is a statutory requirement in accordance with the GDPR and DPA 2018, and the Council cannot be left without a designated Data Protection Officer for any period.

Comments checked by:

Helen Lolas, Team Leader & Solicitor, 07801 400941,

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### **Risk Implications**

- 7.3 The Council has a statutory duty to appoint a Data Protection Officer. Making the recommended appointment will ensure the Council fulfils this duty.

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director Customer Focus,  
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### **Equalities and Inclusion Implications**

- 7.4 There are no specific equalities implications arising from this report.

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director Customer Focus,  
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## **8.0 Decision Information**

### **Key Decision**

**Financial Threshold Met:** N/A

**Community Impact Threshold Met:** N/A

### **Wards Affected**

N/A

### **Links to Corporate Plan and Policy Framework**

Not applicable – this report is made pursuant to a statutory requirement.

### **Lead Councillor**

Not applicable – this report is made pursuant to a statutory requirement.

### **Document Information**

#### **Appendix number and title**

- None

#### **Background papers**

None

#### **Report Author and contact details**

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