

RESOURCES COMMITTEE

Date: 11 February 2022

Subject: Recruitment to the post of GMCA Solicitor and Monitoring Officer

Report of: Eamonn Boylan, Chief Executive Officer, GMCA & TfGM

PURPOSE OF REPORT

The purpose of this report is to seek approval from the Committee on the recruitment programme for filling the position of GMCA Solicitor and Monitoring Officer, following the announcement of intended phased retirement by the current GMCA Solicitor and Monitoring Officer, Liz Treacy, in September/October 2022. The report also sets out the proposed remuneration, and details of the role which has changed considerably since the GMCA was established in 2011.

RECOMMENDATIONS:

The Committee is asked to:

1. Note the intended phased and flexible retirement arrangements of the current GMCA Solicitor and Monitoring Officer as set out in the report.
2. Authorise the GMCA Chief Executive to progress the recruitment of a new GMCA Solicitor and Monitoring Officer.
3. Approve the appointment of an appropriate recruitment agency to provide independent support to the process.

4. Provide comment on the level of remuneration set at £140,813 and the draft Role Profile for the new GMCA Solicitor and Monitoring Officer and make a recommendation to the GMCA
5. Comment on the suggested approach to the recruitment process for that role and the indicative timescales proposed.
6. Agree to constitute a Panel of 4 members of the Committee to act as the Appointment Panel for the role, to progress the recruitment and appointment and to note that the GMCA approves the final appointment.
7. Approve the establishment of a senior legal support post following the recruitment of a new GMCA Solicitor and Monitoring Officer at £95,000 pa to be applied on a pro-rata basis

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Risk Management – N/A

Legal Considerations – N/A

Financial Consequences – Revenue – costs of the recruitment agency will be approximately £30k.

Financial Consequences – Capital – N/A

BACKGROUND PAPERS:

N/A

1. BACKGROUND AND CONTEXT:

- 1.1 At its meeting on 13 January 2013 the Combined Authority approved the appointment of Liz Treacy as the GMCA's Monitoring Officer, (effective from 16 May 2013). The Resources Committee approved the GMCA Monitoring Officer continuing in this position on a permanent basis on a GMCA employment contract from 14 March 2018. The current salary for the role is £140,813.
- 1.2 The GMCA Monitoring Officer has now formally notified the Authority of her intention to flexibly retire on 31st May 2022, (subject to the recruitment of a new Monitoring Officer) and thereafter work flexibly working 2-3 days per week to be paid on a pro rata basis . She will step down from the role as the GMCA Monitoring Officer but will continue to lead on Clean Air, Bus Reform and the new Integrated Care System. The GMCA Chief Executive has agreed to the flexible retirement arrangements which will enable her continuing support and expertise on key GMCA priorities and support a smooth handover to a new Monitoring Officer. The Committee is therefore requested to approve the establishment of a senior legal support post following the recruitment of a new GMCA Solicitor and Monitoring Officer at £95,000 pa to be applied on a pro-rata basis.

2. ROLE AND LEVEL OF REMUNERATION

- 2.1 The GMCA's devolved powers has meant taking on additional responsibility for the fire service, transport, policing and the functions of the Waste Authority. Additionally, the government has given further freedom and flexibility to the GMCA around criminal justice and offender management. These significant powers are unique to GM and set it aside from powers that have been devolved to the other city regions. Additionally, the Adult Education Budget (AEB) has been devolved to Greater Manchester.
- 2.2 The role of the GMCA Monitoring Officer is critical to the organisation's success given the complex legal environment it operates within. The GMCA Solicitor is also

the statutory Monitoring Officer for the GMCA. This is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989. The roles are assigned to the GMCA Solicitor under the provisions of the GMCA Constitution. As a member of the Chief Executive's Management Team the GMCA Solicitor is required to support the GMCA to develop and deliver its corporate priorities in accordance with the law and the GMCA's Constitution and to provide comprehensive legal advice and support to the GMCA, ensuring that lawful decision making and governance arrangements are in place. The Monitoring Officer is also responsible for the provision of effective governance and the scrutiny function for the GMCA and has responsibility for Information Governance. The new role will also provide strategic legal oversight across the GMCA family, including Transport for Greater Manchester (TfGM).

- 2.3 Whilst similar roles exist in other regions, these regions do not have the level of devolved powers as the GMCA and therefore, these roles do not have the same level or breadth of responsibility or accountability. In order to deliver successful outcomes, the postholder will require skills and the ability to create confidence at GM, regional and national levels. They will need to demonstrate an outstanding track record in leading improvement as well as a sound understanding of working within a political environment.
- 2.4 In view of the unique required scope of the role, the refreshed GMS and Transport objectives, the GMCA Chief Executive would like to take opportunity to review the role and in particular confirm the strategic legal support which the current Monitoring Officer undertakes across the GMCA & TfGM. This will also involve the commissioning of a recruitment agency to support the development of the role description, and to support the recruitment exercise. A draft Role Profile setting out the job and personal requirements is attached at Appendix 1.

3. RECRUITMENT PROGRAMME

- 3.1 The GMCA Monitoring Officer and Solicitor is an appointment that will ultimately be determined by the GMCA. Given the importance of this role, it is critical that we

attract and select the highest calibre of candidate via a rigorous process. In order to ensure that there is an expert approach to sourcing and selecting the best candidate, it is proposed that an external consultant is procured to lead on the recruitment exercise and to provide technical expertise to the assessment panel. This will provide the GMCA with confidence that they are being presented with the highest talent across a national pool; it will give reassurance that there is technical rigour to screen those candidates and it will also bring a level of independence to the process.

3.2 Once engaged, it is proposed that the consultant works alongside the Chief Executive to refine the role profile and work together to develop an advertising strategy that will attract the highest level of talent for the role, as well as developing an appropriate assessment process.

3.3 An indicative timeline for the recruitment activity is set out below:

- Resources Committee – agree recruitment process 11th February
- Refine and finalise Role Profile by 18th February
- External Consultants to be engaged by 25th February
- Microsite and advert to go live by 2nd week in March
- Closing date by 1st April
- Longlist by 8th April
- Appointment Panel shortlisting – w/c 11th April
- Assessment Centre and final interview by Appointment Panel – end of April/early May
- Appointment final approval by GMCA - 27th May

3.4 Dependent on the notice period for the successful applicant, the individual may be in a position to take up post by September 2022 (assuming 3 months' notice period).

4. BUDGET IMPLICATIONS:

The cost of engaging a recruitment consultant to manage the selection process for the GMCA Monitoring Officer is estimated to be in the region of £30k.

5. TRADE UNION COMMENT:

To Follow.

6. RECOMMENDATION:

As set out in the front of this report.

GMCA SOLICITOR AND MONITORING OFFICER Greater Manchester Combined Authority

Role Profile

Job Title:	GMCA Solicitor and Monitoring Officer	Date:	February 2022
Reporting Line:	Eamonn Boylan, Chief Executive and Head of Paid Service	Salary:	£140,813
Team:	Legal, Governance and Information Governance Services	Business Area:	GMCA

JOB PURPOSE

The GMCA Solicitor reports directly to the Chief Executive of GMCA. The GMCA Solicitor is responsible for the management of Legal, Democratic and Governance Services, the Information Governance Service and Strategic Lead on legal transport matters.

The GMCA Solicitor is also the statutory Monitoring Officer for the GMCA. This is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989. The roles are assigned to the GMCA Solicitor under the provisions of the GMCA Constitution.

The main purpose of the job is:

- As a member of the Chief Executives Management Team the GMCA Solicitor is required to support the GMCA to develop and deliver its corporate priorities in accordance with the law and the GMCA's Constitution.
- To provide comprehensive legal advice and support to the GM Mayor and the GMCA
- To undertake the role of Monitoring Officer for the GMCA and ensure lawful decision making and governance arrangements are in place
- To be responsible for the provision of effective governance and scrutiny for the GM Mayor and the GMCA.

Key Accountabilities:

- Monitoring Officer, GMCA (a combined authority of the 10 GM districts and the GM Mayor)
- Lead legal adviser on all matters relating to the GMCA
- Accountable to the Chief Executive and Members of GMCA
- Member of the Chief Executive Management Team.
- Responsible for the GMCA's Democratic, Governance and Scrutiny, Information Governance functions and legal lead on transport matters.

DIMENSIONS

- Liaising with internal and external customer groups and strategic partners; Senior Managers and staff within GMCA, Senior Managers from across GM's public sector and stakeholders/partners;
- Senior officers and members within GMCA, including Chief Executives, chief officers, chief legal officers and leading Members.
- Senior officials in government departments, in particular, DLUHC, DFT, DFE, DWP, and representatives of the Welsh and Scottish governments.
- Senior private sector lawyers
- Officer colleagues

KEY RESPONSIBILITIES

1. To provide a comprehensive legal advice service to the GM Mayor and the GMCA, its committees and officers over the whole range of its current functions:
 - Acting as the GMCA's most senior legal adviser supporting the GMCA, the Head of Paid Service, Strategic Management Team, and other key organisational decision makers in order to deliver GMCA priorities in accordance with all legal requirements
 - Leading the Legal, Democratic and Governance Service and management of commissioning agreement with Manchester City Council in relation to the delivery of Legal Services.
2. To undertake the role of Statutory Monitoring Officer for the GMCA through the leadership and delivery of all functions associated with the role as referenced in the Constitution, including:
 - Advising on the scope of the GMCA and Mayoral powers and authority to take decisions
 - Supporting the Standards Committee in the promotion and maintenance of high standards of conduct and the administration of the Code of Conduct
3. To advise on and oversee personally high-profile matters which have significant impact on the GMCA.
4. To ensure effective communication through high quality reports, informal briefings and presentations to the Council, Members and organisations from the public, voluntary and private sectors.
5. To discharge the functions delegated to the GMCA Solicitor and Monitoring Officer in the GMCA Constitution including the institution, conduct, prosecution, defence and settlement, if appropriate, of legal proceedings. (Excerpt of the Constitution attached as Appendix 1).
6. To exercise overall responsibility for the execution of democratic, governance and information governance processes.
7. To undertake such other duties as may be reasonably assigned from time to time as are compatible with the above roles.

Functions of the Monitoring Officer

8. To maintain an up-to-date version of the Constitution and ensure that it is widely available for inspection by Members, staff and the public.
9. After consulting with the Head of Paid Service and the Treasurer, the Monitoring Officer will report to the GMCA in relation to an executive function – if he/she considers that any proposal, decision, or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
10. Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
11. Receive and act on reports made by Investigating Officers.
12. Conduct investigations into matters and make reports or recommendations in respect of them to the Standards Committee.
13. Ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
14. Advise whether decisions of the GM Mayor and GMCA are in accordance with the budget and policy framework.
15. Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to Members.
16. Determine exemptions under section 36 of the Freedom of Information Act 2000 relating to information which is prejudicial to the effective conduct of public affairs.

KNOWLEDGE, SKILLS AND EXPERIENCE

- Must have excellent leadership and management skills at a very senior level, with the proven ability to inspire individuals, teams and services. Must be able to provide strong visible, positive leadership and team working skills. Be able to forge partnerships and strong working relationships, negotiate and influence key decision makers and other stakeholders.
- Must have strong commercial acumen with the proven ability to take a strong business perspective in order to achieve best results through contracts and activities which demonstrate value for money.
- A sophisticated understanding of complex governance arrangements at national, regional, sub regional and local government levels across a number of statutory bodies, including the means of legal delegation between different legal entities.
- Detailed knowledge and understanding of all legislation affecting the GM Mayor and the GMCA and their application within the GMCA.
- In depth knowledge of democratic governance and decision-making, including the constitution of the GMCA, the financial regulations, officer delegations, conduct of Members and officers and lawful decision-making.

- Excellent relationship building with internal and external stakeholders including Senior Government officials, Chief Executive's and Leaders. High level of political awareness.
- The GMCA Solicitor must be a Solicitor with entitlement to a Practising Certificate or Barrister qualified to practice.
- There is a requirement for the GMCA Solicitor to have a satisfactory enhanced CRB check.
- The GMCA Solicitor must have a detailed knowledge and understanding of the law as it applies to local authorities.
- The GMCA Solicitor must be technically competent in all areas of the law and the democratic process and protocol to be able to provide clear professional advice to political leaders and senior colleagues including the ability to challenge where legal and professional standards are not being upheld.
- Strategic awareness of the financial structure of the GMCA and the implication of decisions on the delivery of value for money for GM residents.

This post is classified as politically restricted, as in the Local Government and Housing Act 1989, as the post holder will be required to regularly advise the GM Mayor, GMCA, it's Committees, or communicate with the media on behalf of the GMCA.

APPENDIX 1

GMCA CONSTITUTION

Scheme of Delegation of Functions to Chief Officers and Schedule of Proper Officers

Delegations to the Monitoring Officer.

These functions may be Mayoral functions or non Mayoral functions depending on the circumstances.

The functions of the Monitoring Officer shall be as follows:

5.1 Should at any time it appear to the Monitoring Officer that any proposal, decision or omission by the GMCA has given rise to, or is likely to give rise to unlawfulness or maladministration, he/she will prepare a report to the GMCA with respect to that proposal, decision or omission.

5.2 Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

The GMCA has delegated to the Monitoring Officer the following powers to deal with matters of conduct and ethical standards in accordance with the requirements of the Localism Act 2011:

- (i) To act as the GMCA's Proper Officer to receive complaints that GMCAMembers have failed to comply with the GMCA's Code of Conduct for Members;
- (ii) To determine, after consultation with the Independent Person and in accordance with the GMCA's Arrangements for dealing with Complaints that GMCA Members have failed to comply with the GMCA's Code of Conduct for Members ("the GMCA's Arrangements") whether to reject, informally resolve or investigate a complaint;
- (iii) To seek informal resolution of complaints that GMCA Members have failed to comply with the GMCA's Code of Conduct for Members wherever practicable;
- (iv) To refer decisions dealing with a complaint against a GMCA Member to the GMCA's Standards Committee in exceptional circumstances;
- (v) To arrange for the appointment of an Investigating Officer to investigate a complaint where the Monitoring Officer (in consultation with an Independent Person) determines that a complaint merits formal investigation;
- (vi) To issue guidance to be followed by an Investigating Officer on the investigation of complaints;
- (vii) To confirm, after consultation with an Independent Person and in accordance with the GMCA's Arrangements, an Investigating Officer's finding of no failure to comply with the GMCA's Code of Conduct for Members;
- (viii) Where an Investigating Officer's report finds that the Subject Member has failed to comply with the GMCA's Code of Conduct for Members, to determine, after consultation with the Independent Person and in accordance with the GMCA's Arrangements, either to seek a local resolution or to send a matter for local hearing.

5.3 GMCA's Register of Member's Interests In conjunction with the Secretary to prepare and maintain a new GMCA Register of Member's Interests to comply with the requirements of the Localism Act 2011 and the GMCA's Code of Conduct for Members, and ensure that it is available for inspection and published on the GMCA's website as required by the Act.

5.4 Dispensations To grant dispensations from section 31(4) of the Localism Act 2011 in consultation with the Independent Person if, having had regard to all relevant circumstances, the Monitoring Officer:

i) considers that without the dispensation the number of persons prohibited by section 31(4) of the Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or

ii) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or

iii) considers that granting the dispensation is in the interests of persons living in the GMCA's area; or iv) considers that it is otherwise appropriate to grant a dispensation.

5.5 Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all members of the GMCA.

5.6 To act as the Solicitor to the GMCA.

5.7 To institute, conduct, prosecute and defend any legal proceedings on behalf of the GMCA, as may be necessary to protect and promote the GMCA's interests in accordance with any general policy laid down by the GMCA, subject to consultation with the Chair in any case where the matter is of significance to the GMCA's reputation or where the GMCA is to appeal to the Court of Appeal or the Supreme Court.

5.8 To settle, if appropriate, and in the interests of the GMCA, any actual or threatened legal proceedings.

5.9 To instruct Counsel and professional advisers, where appropriate.

5.10 To give undertakings on behalf of GMCA.

5.11 To supervise the preparation and sealing or signature of legal documents.

5.12 To authorise other officers to seal documents in accordance with Article 12.4 of the GMCA Constitution, or to sign documents which are not required to be under seal.

5.13 To complete all property transactions and contractual arrangements where terms have been agreed by the GMCA or Committees or Chief Officers acting under the Scheme of Delegation.

5.14 To determine exemptions under Section 36 of the Freedom of Information Act 2000.

5.15 To accept on behalf of the GMCA the service of notices, orders and legal procedures.

5.16 Under Section 223 of the Local Government Act 1972 to authorise officers who are not admitted solicitors to appear in Magistrates' Court on behalf of the GMCA.

5.17 To be responsible for determinations in relation to and maintenance of the list of politically restricted posts.