



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 17th February 2010

Subject: Annual Report On The Monitoring Officer Protocol

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report is the annual report of the Monitoring Officer required under Paragraph 5 of the Monitoring Officer Protocol. The Monitoring Officer is required to report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and include any proposals for amendments in the light of any issues that have arisen throughout the year.
2. An amended copy of the Monitoring Officer Protocol is attached to this report for Members' approval.
3. Members of the Standards Committee are asked to:
 - Consider the performance information and issues raised within this report; and
 - Approve the revised Monitoring Officer Protocol which has been amended to take account of the creation of the new Hearings Sub-Committee and Consideration Sub-Committee.

1.0 Purpose Of This Report

1.1 This report is the Monitoring Officers Annual Report which is required under paragraph 5 of the Monitoring Officer Protocol. The Monitoring Officer is required to report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and include any proposals for amendments in the light of any issues that have arisen throughout the year.

2.0 Background Information

2.1 Members will recall that the role of the Monitoring Officer is a statutory role by virtue of Section 5 of the Local Government and Housing Act 1989. The principle duties of the Monitoring Officer are set out in the Appendix to the Monitoring Officer Protocol, which for ease of reference is attached to this report as Appendix 1.

2.2 The functions carried out by the Monitoring Officer include the following:-

- Reporting on Contraventions of the Law.
- Reporting on any maladministration or injustice where the Ombudsman has carried out an investigation.
- Establishing and maintaining registers of Members' interests and gifts and hospitality.
- Maintaining reviewing and monitoring the constitution.
- Supporting the Standards Committee.
- Advising on Vires issues, maladministration, financial impropriety, propriety, budget and policy framework issues for all Members.

3.0 Main Issues

3.1 Paragraph 5 of the Monitoring Officer Protocol requires that the Monitoring Officer reports annually to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and whether there are any proposals for amendments. The following paragraphs give detailed information in relation to each heading raised in the Protocol.

Resources

3.2 The Monitoring Officer considers that she has sufficient resources to discharge her statutory functions, and to address any matters concerning her functions.

3.3 The Monitoring Officer is satisfied that so far for the financial year 2009/10 she had a sufficient budget at her disposal to enable her to seek Counsel's opinion on matters concerning her functions as and when necessary during the course of the current Municipal year.

3.4 The Monitoring Officer has appointed the Chief Officer (Legal, Licensing and Registration) as the Deputy Monitoring Officer and keeps him briefed on any relevant issues that he may have to deal with in her absence.

Access to information/ meetings

- 3.5 The Monitoring Officer is of the view that she has been alerted to any issues that may have become of concern to the authority. The Monitoring Officer has had advance notice of all relevant meetings of the authority, and has had the right to attend these meetings.
- 3.6 The Monitoring Officer has ensured that all meetings of the authority are sufficiently supported and advised. All meetings of Committees, Panels and Sub-Committees are attended by a member of Governance Services who maintains a record of the meeting and advises on procedural issues. All Committees also have a legal officer who is responsible for providing legal advice to that body, and in some cases, especially where committees are acting in a quasi-judicial capacity, the legal officer also attends the meetings throughout.
- 3.7 The Monitoring Officer, as the Assistant Chief Executive (Corporate Governance), is a member of the Corporate Leadership Team, and therefore has had advance notice of its meetings, agenda and reports, and has had the right to attend and speak.
- 3.8 As the proper officer for access to information, the Monitoring Officer is responsible for ensuring that decisions, together with reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible. The Monitoring Officer achieves this through the publication on the Council's website of minutes, delegated decision notices and the forward plan within strict deadlines.

Relationships

- 3.9 The Monitoring Officer has ensured that the other statutory officers have been kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues.
- 3.10 The Monitoring Officer has met regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues. They all attend weekly meetings of the Corporate Leadership Team, and any additional meetings are arranged as and when necessary.
- 3.11 The Monitoring Officer is the Chair of an officer group involving representatives from audit, risk, finance, governance, performance management, information governance and human resources. The Corporate Governance Board is responsible for reviewing the adequacy of the Council's Corporate Governance arrangements (including matters such as internal control and risk). This group meets every month and therefore allows the Monitoring Officer to maintain effective working relationships with these officers and retain an overview of corporate governance issues.
- 3.12 The Monitoring Officer has a close working relationship of respect and trust with the Lord Mayor, deputy Lord Mayor, group whips and the chairs of the Executive Board, Standards Committee, regulatory committees, Scrutiny Boards and Area Committees. Where challenge has arisen the Monitoring Officer has raised these issues with the Members concerned in order to resolve them.
- 3.13 The Monitoring Officer has developed and maintained an effective working liaison and relationship with Standards for England, the District Auditor and the Local

Government Ombudsman. During this municipal year the Monitoring Officer was asked to speak at the Standards for England Annual Assembly on managing investigations.

- 3.14 The Monitoring Officer is required to make a report under Section 5 of the Local Government and Housing Act 1989 if it appears to her that any proposal, decision or omission by the Authority¹ has given rise to or is likely to give rise to a contravention by the Authority of any enactment or rule of law. The Monitoring Officer has not had reason to make any report under Section 5 of the Local Government and Housing Act 1989 or to consult in relation to making any of these formal reports.
- 3.15 The Monitoring Officer has informal mechanisms for dealing with issues which are brought to her attention which are not likely to give rise to a contravention of any enactment or rule of law. The Monitoring Officer keeps records of these matters and any appropriate action taken.
- 3.16 The Monitoring Officer has made arrangements to ensure effective communication between her office and clerks to parish councils. The Parish Council Liaison Officer sends correspondence as and when necessary, and provides information to meetings of the Parish Council Liaison Forum. In addition there is regular contact from the Standards Committee to Parish Councils. All Clerks receive a copy of the agenda for each Standards Committee meeting together with correspondence sharing information and guidance from the Standards Committee and seeking the views of the Parish Councils.

Ombudsman Complaints

- 3.17 It is the duty of the Monitoring Officer under the Local Government Act 1974 and the Local Government and Housing Act 1989 to prepare reports in relation to complaints which have been the subject of investigation by the Local Government Ombudsman and which have revealed maladministration, whether or not that maladministration has been found to cause injustice. The Monitoring Officer carries out this duty by instructing the relevant director to produce a report for the Executive Board.
- 3.18 There have been no reports of this nature presented to the Executive Board since April 2009.
- 3.19 The Monitoring Officer has a duty to prepare reports where considered necessary to bring to Members' attention issues of importance arising out of complaints made to the Local Government Ombudsman, whether or not those complaints were investigated or maladministration found. These reports are formally considered by the Corporate Governance and Audit Committee. The Monitoring Officer has not had occasion to provide Corporate Governance and Audit Committee with any such report during this municipal year.
- 3.20 An additional report on 30th September 2009 highlighted comments made by the Local Government Ombudsman in her annual letter. The Ombudsman's Annual Letter was on the whole complimentary about improvements the Council had made over the last year, including the response times to formal enquiries and the co-operative attitude of Council employees. However, the Ombudsman did remind the Council that it still had areas to focus on such as antisocial behaviour. In her annual letter the Ombudsman did refer to a number of complaints about antisocial

¹ This includes committees, sub-committees, any person holding any office or employment under the authority or joint committees.

behaviour which concerned her because they raised the question of systematic problems in the way the Council deals with this issue. However, there were no other concerns, trends or themes identified by the Ombudsman in the annual letter. The Corporate Governance and Audit Committee resolved to request a further report on the issues raised with antisocial behaviour during this municipal year.

Standards matters

- 3.21 The Monitoring Officer has provided advice to Members of the City Council and Members of Parish Councils. The Monitoring Officer has done so through correspondence, in meetings, and through the provision of guidance and briefing notes on specific issues.
- 3.22 The Monitoring Officer has arranged a programme of training for Members on ethical standards and Code of Conduct Issues. Several compulsory training sessions relating to governance and conduct issues have taken place for Members of Plans and Licensing panels this year. These also incorporated training on the local assessment process. The Monitoring Officer has also ensured that all Standards Committee Members have been trained on the Code of Conduct, how to assess complaints about Members, and the hearings process.
- 3.23 Training has been provided for Members of Parish and Town Councils through the Annual Spring Conference. This training focused on the Members' Code of Conduct and the local assessment process.
- 3.24 Two final investigations into complaints under the Members' Code of Conduct have been concluded this municipal year on behalf of the Monitoring Officer. Both investigations were completed by an external solicitor and involved allegations that a Councillor failed to comply with Leeds City Council's Code of Conduct. In both cases the investigating officer was satisfied that she had access to all necessary information and all officers who could assist in the discharge of her functions.
- 3.25 Together with Human Resources, the Monitoring Officer has created and delivered an ethical governance briefing for all officers, which incorporates training on the Members' Code of Conduct and certain of the local codes and protocols. In future this training will be provided to officers in e-learning format.
- 3.26 The Monitoring Officer is responsible for ensuring that Leeds City Councillors and voting Co-opted Members complete and maintain a register of interests and register any gifts or hospitality that they have received. The Monitoring Officer has delegated responsibility for these matters to Governance Services, but remains updated through regular reports on these matters.
- 3.27 The Monitoring Officer has delegated responsibility to the Parish Clerks for maintaining the Members' register of interests and the register of gifts and hospitality for their Parish Council. The Monitoring Officer seeks confirmation on an annual basis that these registers are being regularly reviewed by the Clerks, and that they are being completed by new Councillors through the annual audit process.
- 3.28 The Monitoring Officer is also responsible for receiving and acting on reports from Ethical Standards officers and decisions of case tribunals. One investigation has been completed by an Ethical Standards Officer this year. The Monitoring Officer has ensured that it is put before the Standards Committee so that they can consider how the information in the report might assist them in the discharge of their functions. The Monitoring Officer has also reported to the Standards Committee on

the number of complaints received regarding Leeds City Councillors and Parish and Town Councillors in Leeds and the outcome of those complaints twice a year, as well as reporting on Adjudication Panel case tribunal decisions at every meeting.

- 3.29 The Monitoring Officer is also responsible for supporting the Standards Committee. Through her support to the Committee the Monitoring Officer promotes and maintains high standards of conduct. The Monitoring Officer has ensured that the Committee are supported through attending meetings of the Committee, ensuring they are able to carry out their functions effectively by the provision of reports and information, and through ensuring that their training needs are met by enabling Committee members to attend internal and external training sessions. Committee members have attended the Standards for England Annual Conference, the inaugural West Yorkshire Regional Standards Conference, been provided with training on hearings by an external facilitator, and watched Standards for England training DVDs. Members of the Committee have also been provided with guidance on the local assessment process, including locally development tools to assist them with following the Standards for England guidance and considering all aspects of the Code of Conduct. The Committee have also been regularly briefed on potential changes and developments to the Members' Code of Conduct as well as the development of case law.

Constitution

- 3.30 The Monitoring Officer has kept the Constitution under continuous review and where necessary reports are taken to General Purposes Committee, Standards Committee and Full Council for approval in respect of proposed amendments to the Constitution. The Monitoring Officer has consulted with the Chief Finance Officer and the Head of Paid Service when required.
- 3.31 The Monitoring Officer has also made arrangements for a working group of the Member Management Committee to meet to consider the content of the local Codes and Protocols in Part 5 of the Constitution, in order that she can be assured that they are fit for purpose.

Members and Officer Responsibilities

- 3.32 The Monitoring Officer is satisfied that Members and Officers have reported any suspected breaches of statutory duty or council policies or procedures and other vires or constitutional concern to her as soon as practicable.

Advice

- 3.33 The Monitoring Officer has been available for Members and Officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements.

Amendments to the Monitoring Officer Protocol

- 3.34 The Protocol was amended during the last annual review to take account of the amendments to the role of the Monitoring Officer caused by the Local Government and Public Involvement in Health Act 2007. Since then there have been no changes to the role of the Monitoring Officer.

3.35 There are some amendments required to the Monitoring Officer Protocol to reflect the decisions of the Standards Committee on 8th July and 16th December 2009 to create a Hearings Sub-Committee and a Consideration Sub-Committee. There are also minor amendments to reflect the change in name of the 'Standards Board for England' to 'Standards for England'. The required amendments are highlighted in track changes in Appendix 1.

4.0 Implications For Council Policy And Governance

4.1 The Monitoring Officer is a statutory role which underpins the Ethical Framework of the Council. Annual reporting on the Monitoring Officer's performance of the protocol supports the ethical framework and provides a key assurance to inform the Council's Annual Governance Statement.

5.0 Legal And Resource Implications

5.1 This report is not considered to have any specific legal or resource implications.

6.0 Conclusions

6.1 This is the annual report of the Monitoring Officer required under paragraph 5 of the Monitoring Officer Protocol. This report confirms that the arrangements set out in the Protocol are being carried out satisfactorily.

7.0 Recommendations

- 7.1 Members of the Standards Committee are asked to:
- Consider the assurances and performance information provided in this report; and
 - Approve the revised Monitoring Officer Protocol which has been amended to take account of the creation of the new Hearings Sub-Committee and Consideration Sub-Committee.

Background Documents

- The Local Government Ombudsman's Annual Review, Leeds City Council, for the year ended 31st March 2009
- Minutes of the Corporate Governance and Audit Committee, 30th September 2009
- The Standards Committee (England) Regulations 2008
- The Local Government and Public Involvement in Health Act 2007
- Minutes of the Standards Committee, 8th July 2009
- Minutes of the Standards Committee, 16th December 2009
- Constitution Control Sheets 1-9