

MONITORING OFFICER PROTOCOL

1.0 INTRODUCTION TO 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 Assistant Chief Executive (Corporate Governance).
- 1.3 A summary list of the Monitoring Officer's responsibilities appears in the Annex attached. 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 Standards Committee and the Monitoring Officer;
 - (c) making lawful and proportionate decisions; and
 - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

2.0 WORKING ARRANGEMENTS

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) 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.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-

2.2.1 Resources

- (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
- (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
- (c) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions;

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- (d) appoint a deputy and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer;

2.2.2 Access to information/meetings

- (a) be alerted by Members and officers to any issue(s) that may become of concern to the authority, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice, (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend (including the right to be heard) any meeting of the authority (including meetings at which officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (d) be a member of the Corporate Leadership Team and will have advance notice of those meetings, agenda and reports and the right to attend and speak;
- (e) in carrying out any investigation(s), have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his/her functions;

2.2.3 Relationships

- (a) ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) meet regularly with the Head of Paid Service and the Section 151 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 are likely to (or do) arise;
- (c) have a close working relationship of respect and trust with the Lord Mayor, Deputy Lord Mayor and the chairs of the Executive Board, Standards and Regulatory Committees, Scrutiny Boards and Area Committees with a view to ensuring the effective and efficient discharge of Council business;
- (d) develop effective working liaison and relationship with Standards for England, the Audit Commission, the External Auditors and the Local Government Ombudsman (including having the authority, on behalf of the

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Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);

- (e) in consultation, as necessary, with the Leader, Executive Board, Standards Committee and Standards for England, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (f) make arrangements to ensure effective communication between his/her office and clerks to parish councils on Monitoring Officer and Standards Committee issues;

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2.2.4 Ombudsman Complaints

- (a) prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 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 caused injustice;
- (b) prepare reports to Members where considered necessary to bring to their attention issues of importance arising out of complaints made to the Local Government Ombudsman whether or not investigated or maladministration found;

2.2.5 Standards Matters

- (a) refer relevant matters to Standards Committee for initial assessment and review;
- (b) give relevant notifications as required under the Local Government Act 2000 (as amended) to complainants, subject Members and any other relevant parties;
- (c) make arrangements for and advise meetings of the Assessment and Review Sub-Committees;
- (d) carry out any direction from the Standards Committee or an Ethical Standards Officer to take steps other than carrying out an investigation;
- (e) make arrangements for investigations to be carried out into Code of Conduct complaints or local complaints on the instructions of the Standards Committee or an Ethical Standards Officer;
- (f) make arrangements for and to advise the Consideration Sub-Committee in its consideration of a final investigation report;
- (g) make arrangements for and to advise the Hearings Sub-Committee with regard to hearings;

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- (h) give informal advice and undertake relevant enquiries into other allegations of misconduct by Members, and if appropriate make a written report to the Standards Committee, or a written allegation to the Assessment Sub-Committee if in the opinion of the Monitoring Officer, there is a serious breach of the Members Code of Conduct;
- (i) subject to the approval of the Standards Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues;
- (j) establish and maintain ~~the~~ statutory register, ~~of~~ Members' interests and gifts and hospitality; ~~and~~

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2.2.6 Constitution

- (a) ~~review~~ and monitor the Constitution in accordance with the ~~arrangements~~ set out ~~in~~ Article 15.1 of the Constitution and consult with the Section 151 Officer and Head of Paid Service before taking any report to the relevant Committee to approve amendments to the Constitution.

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3.0 MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

4.0 ADVICE

The Monitoring Officer is also 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 (eg Council Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc).

5.0 MONITORING THE PROTOCOL

Annually, the Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

6.0 SANCTIONS FOR BREACH OF PROTOCOL

Complaints of a breach of this Protocol by an Officer will be referred to the relevant Director and/or the Chief Executive for appropriate action to be considered, including disciplinary investigation.

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish and maintain registers of Members' interests and gifts and hospitality.	Section 81 Local Government Act 2000, and Members' Code of Conduct
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Advise Members on interpretation of the Code of Conduct.	Members' Code of Conduct
9	Support the Standards Committee - key role in promotion and maintenance of standards of conduct.	Local Government Act 2000 Part III and DETR guidance paragraph 8.20
10	Receive reports from ethical standards officers and decisions of <u>the First-Tier Tribunal (Local Government Standards in England)</u>	Local Government Act 2000 Part III.
11	Conduct investigations into misconduct.	Local Government Act 2000 Section 66
12	Perform ethical framework functions in relation to Parish Councils.	Section 83(12) Local Government Act 2000
13	To make arrangements for relevant matters to be considered by the Standards Committee with regard to initial assessment,	Local Government Act 2000 (as amended) and Standards Committee (England) Regulations 2008

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	review, consideration of final investigation reports and hearings, and to advise the Standards Committee on such matters.	
14	Proper Officer for access to information	Constitution - Article 12, and DETR guidance.
15	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
16	Advise on vices issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance