



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 16th February 2011

Subject: Annual report of the Monitoring Officer

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. There are no significant issues to report and no amendments are required to the Protocol at the current time.
3. Members of the Standards Committee are asked to consider the assurances and performance information provided in this report.

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. This report covers the period since the previous annual report, which was considered by the Standards Committee on 17th February 2010. 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 principal 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.

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 2010/11 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. The current post holder will be retiring at the end of March 2011 and therefore a new Deputy Monitoring Officer will be designated.

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). Until December 2010 this group met every month and allowed the Monitoring Officer to maintain effective working relationships with these officers and retain an overview of corporate governance issues.
- 3.12 On 9th December 2010, the Corporate Governance Board met to consider whether the terms of reference of the Board were still fit for purpose, relevant and to consider whether the Board was operating within its terms of reference. The Board discussed its role, specifically in light of the current economic conditions that the Council is operating under and concluded that the Board in its current form is no longer fit for purpose. It was considered that a smaller Board composed of the officer's with responsibility for managing the Corporate Governance and Audit Committee should continue to meet but on a much less frequent basis and request reports from key governance officers as required. The Board decided to amend their terms of reference to reflect its changing nature.
- 3.13 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.
- 3.14 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.
- 3.15 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.
- 3.16 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.

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

- 3.17 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 an email providing a link to the agenda published on the Council's website, or a letter and a copy of the agenda, for each Standards Committee meeting. This includes meetings of the Consideration Sub-Committee and Hearings Sub-Committee, although exempt papers are not shared with the Parish Clerks.

Ombudsman Complaints

- 3.18 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. For the second year in a row the Council has had no cases of maladministration, and therefore there have been no reports to the Executive Board on this subject.
- 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 A report to the Corporate Governance and Audit Committee on 29th July 2010 highlighted comments made by the Local Government Ombudsman in her annual letter. Members noted that the Ombudsman's Annual Letter was very positive and specifically noted the excellent performance demonstrated by the Education Leeds and Governance Services in relation to the turn around times for school appeals. The 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. In relation to local settlements, the letter also noted that the Council had a generally positive attitude when it was persuaded that something had gone wrong. There were no concerns, trends or themes identified by the Ombudsman in the annual letter.
- 3.21 The Corporate Governance and Audit Committee resolved to receive a further report detailing how the complaints process is moving forward and information about complaints made to the Council, including the costs of dealing with complaints and arrangements for lessons learned, and to note the contents of the report and acknowledge the ongoing improvements in performance and good feedback from the Local Government Ombudsman.

Standards matters

- 3.22 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.

- 3.23 The Monitoring Officer has arranged a programme of training for Members on ethical standards and Code of Conduct Issues. Compulsory training sessions relating to governance and conduct issues have taken place for Members of Plans and Licensing panels this year. These were incorporated into the Member Learning Days, which appear in the Council diary and enable Members to attend several training sessions in one day. The Monitoring Officer has also ensured that all Standards Committee Members have been offered training on the hearings process, through training carried out by a member of the First-Tier Tribunal (Local Government Standards in England). This took place in March 2010.
- 3.24 Three final investigations into complaints under the Members' Code of Conduct have been concluded this municipal year on behalf of the Monitoring Officer. All three 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 all 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 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. On 5th March 2010 the Monitoring Officer issued a briefing note to all Members on the registration of gifts and hospitality. 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.
- 3.26 The Monitoring Officer has 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. The information regarding complaints against Leeds City Councillors is also shared with the Group Whips on a quarterly basis.
- 3.27 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. Given the forthcoming abolition of Standards for England, the Annual Conference due to be held in October 2010 was cancelled. Members were still able to attend the West Yorkshire Regional Standards Conference which took place in Bradford on 7th July 2010. As previously stated, Members have received training on hearings by an external facilitator, and have been provided with guidance on the local assessment process, including locally developed 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 the potential changes to the standards regime arising from the Localism Bill published in December 2010.

Constitution

- 3.28 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. The amendments to the Constitution made during this municipal year are highlighted within the Constitution control sheets which are available on the Council's website alongside the Constitution itself. The control sheets are also sent to all holders of a paper copy of the Constitution and to all Directors by email.

- 3.29 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. This working group has not met since 16th February 2010, and the process of arranging new meetings has been delayed in the light of the proposed changes to the standards regime detailed in the Localism Bill.

Members and Officer Responsibilities

- 3.30 The Protocol requires Members and Officers to report any suspected breaches of statutory duty or Council policies or procedures and other vices or constitutional concern to the Monitoring Officer as soon as practicable. The Monitoring Officer is satisfied that where matters have been raised, these have been concluded satisfactorily.

Advice

- 3.31 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

- 3.32 There are no amendments required to the Monitoring Officer Protocol at the current time. However, extensive amendments will be required to reflect the proposed changes to the standards regime detailed within the Localism Bill, and the abolition of Standards for England. These changes will need to be made once the Bill has received Royal Assent and comes into force (which is likely to be in February 2012).

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.

Background Documents

- The Local Government Ombudsman's Annual Review, Leeds City Council, for the year ended 31st March 2010
- Constitution Control Sheets 1-13