

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 5th April 2013

Subject: Annual report of the Monitoring Officer

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report is the annual report of the Monitoring Officer required under Paragraph 5 of the Monitoring Officer Protocol.
2. The Monitoring Officer is required to report to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with and including any proposals for amendments in the light of any issues that have arisen throughout the year.

Recommendations

3. The Standards and Conduct Committee is asked to consider the assurances and performance information provided in this report, and to approve the proposed amendments to the Protocol (attached as Appendix 1 to this report).

1 Purpose of this report

- 1.1 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 and Conduct 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 Background information

- 2.1 The last report from the Monitoring Officer was produced in February 2011 and was presented to the Standards Committee. At the time there were no issues to report and no proposed amendments to the Protocol.
- 2.2 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 Annex to the Monitoring Officer Protocol, which is attached to this report as Appendix 1.

3 Main issues

- 3.1 Paragraph 5 of the Monitoring Officer Protocol requires that the Monitoring Officer reports annually to the Standards and Conduct 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.

3.2 Resources

- 3.2.1 The Monitoring Officer considers that she has sufficient resources to discharge her statutory functions, and to address any matters concerning her functions.
- 3.2.2 The Monitoring Officer is satisfied that so far for the financial year 2012/13 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.
- 3.2.3 The Monitoring Officer has appointed the Head of Governance Services as the Deputy Monitoring Officer and keeps him briefed on any relevant issues that he may have to deal with in her absence.

3.3 Access to information / meetings

- 3.3.1 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.
- 3.3.2 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.

- 3.3.3 The Monitoring Officer, as the City Solicitor, 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.
- 3.3.4 The Monitoring Officer has not been required to undertake any investigations during the 2012/13 municipal year, but is confident that she would have unqualified access to any information held by the Council and to any officer who can assist in the discharge of her functions.
- 3.3.5 As the proper officer for access to information, the Monitoring Officer is responsible for ensuring that the rules set out in the Access to Information Procedure Rules around the publication of notices, decisions, reports, background papers and minutes, are complied with. This function is sub-delegated to the Head of Governance Services who ensures that the Rules are routinely complied with.
- 3.4 **Relationships**
- 3.4.1 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.
- 3.4.2 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.
- 3.4.3 The Monitoring Officer has a close working relationship of respect and trust with the Lord Mayor, group whips and the Chairs of the Executive Board, Standards and Conduct Committee, regulatory committees, Scrutiny Boards and Area Committees.
- 3.4.4 Through Governance Services the Monitoring Officer has developed and maintained an effective working liaison and relationship with the District Auditor and the Local Government Ombudsman.
- 3.4.5 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.

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

- 3.4.6 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.
- 3.4.7 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. Parish Clerks are also able to contact officers in Governance Services to seek advice on conduct issues or to provide updates to the Register of Interests.

3.5 **Ombudsman Complaints**

- 3.5.1 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 (LGO) 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. The LGO investigated 107 enquiries and complaints during 2011/12 and found fault with the Council in four of these cases.
- 3.5.2 The Council received four public reports during 2011/12 which revealed maladministration causing injustice. These are the first such reports the Council has received since 2007. The first three cases related to Children's Services and the Director of Children's Services reported on these cases to the Executive Board on 7th September 2011. The fourth case involved Adult Social Care and Leeds Joint Care Management Team, and the Director of Children's Services reported on this case to the Executive Board on 4th January 2013.
- 3.5.3 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.
- 3.5.4 A report to the Corporate Governance and Audit Committee on 28th September 2012 highlighted comments made by the Local Government Ombudsman in her annual letter. The Ombudsman's representative reported that the Leeds officers co-operated fully with all Ombudsman investigations, and commented that the authority took lessons learned from such cases seriously. In the annual letter the Ombudsman also highlighted a particular case involving a housing issue where the Council had missed many chances to resolve the problem with the complainant. The Ombudsman expressed a wish that the Council would learn from this complaint to avoid problems recurring.

3.6 Standards matters

- 3.6.1 The Monitoring Officer has provided advice on the Code of Conduct 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. The Monitoring Officer has reported to the Standards and Conduct Committee on the number of complaints received regarding Leeds City Councillors and Parish and Town Councillors in Leeds and the outcome of those complaints at each Committee meeting.
- 3.6.2 There have been no matters referred to the Consideration Sub-Committee of the Standards and Conduct Committee during the 2012/13 municipal year, as all complaints have been resolved before or at Stage 1 of the complaints procedure.
- 3.6.3 The Monitoring Officer has arranged a programme of training for Members on the new standards regime. All 99 Leeds City Councillors, the Independent Person, and some Parish and Town Councillors have taken part in this training.
- 3.6.4 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 is also responsible for ensuring the Parish and Town Councillors in Leeds register their disclosable pecuniary interests and that these are published on the Leeds City Council website. The Monitoring Officer has delegated responsibility for these matters to Governance Services, but remains updated through regular reports on these matters. All Leeds City Councillors have registered their interests, but there are still two register entries outstanding from the Parish and Town Councillors.
- 3.6.5 The Monitoring Officer is also responsible for receiving any requests for dispensations from Leeds City Councillors and referring these requests to the Head of Paid Service. During the 2012/13 year all Leeds City Councillors applied for a dispensation in relation to the full Council meeting on 27th February 2013 to enable them to take part in the discussion and vote on the Council's budget. This dispensation was granted by the Head of Paid Service on 7th February 2013.

3.7 Constitution

- 3.7.1 The Monitoring Officer has kept the Constitution under continuous review and where necessary reports are taken to General Purposes Committee, Standards and Conduct 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 Members and Directors by email.

3.8 Members and Officer Responsibilities

3.8.1 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.

3.9 Advice

3.9.1 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.

3.10 Amendments to the Monitoring Officer Protocol

3.10.1 An amended version of the Monitoring Officer Protocol is attached as Appendix 1 to this report. Slight amendments are proposed to reflect the following changes:

- That the Council no longer appoints a Deputy Lord Mayor.
- The Audit Commission has been abolished.
- That granting dispensations is now the responsibility of the Head of Paid Service rather than the Standards and Conduct Committee.
- That from April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO), rather than the Local Government Ombudsman.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 No consultation has been necessary on the contents of this report.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no equality and diversity or cohesion and integration issues arising from this report.

4.3 Council policies and City Priorities

4.3.1 Paragraph 5 of the Monitoring Officer Protocol requires that the Monitoring Officer reports annually to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with. The functions of the Monitoring Officer contribute towards Principle 3 of the Council's Code of Corporate Governance by promoting and maintaining good conduct and behaviour.

4.4 Resources and value for money

4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The annex to the Monitoring Officer Protocol attached as Appendix 1 summarises the Monitoring Officer's duties and the relevant legislation.

4.6 Risk Management

4.6.1 There are no significant risks associated with this report.

5 Conclusions

5.1 The Monitoring Officer has complied with her legal duties throughout the year, and has no issues to report.

6 Recommendations

6.1 The Standards and Conduct Committee is asked to consider the assurances and performance information provided in this report, and to approve the proposed amendments to the Protocol (attached as Appendix 1 to this report).

7 Background documents²

7.1 None.

² The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.