

PART 10

Monitoring Officer Protocol

MONITORING OFFICER PROTOCOL

1. Introduction

This protocol explains the role and functions of the County Council's Monitoring Officer (a role carried out by the Assistant Director (Governance, Legal and Assurance) and the arrangements for ensuring that this role is carried out effectively.

It is based on the understanding that the ability of the Monitoring Officer to undertake this role effectively depends on excellent working relations with councillors and colleagues and also on the flow of information and access to debate, particularly at the early stages.

2. Functions

The chief responsibilities can be summarised as:-

- (a) A duty to report to the Council and the Cabinet in any case where the Monitoring Officer is of the opinion that any proposal, decision or omission is or is likely to be illegal or to constitute maladministration.
- (b) A range of functions relating to the conduct of councillors (for example maintaining the Register of Members' Interests and advising the Audit Committee).
- (c) Specific functions under the Council's Constitution (for example monitoring the operation of the Constitution and notification of motions).

3. Discharge of Functions

3.1 To ensure the effective undertaking of these duties, the Monitoring Officer will:-

- (a) Have regular meetings with the Chief Executive, Head of Finance and the Business Managers in Democratic Services in order to review current and likely future issues with legal, constitutional or ethical implications.
- (b) Maintain good liaison and working relations with the Independent Person(s), the Council's external auditors and the Local Government and Social Care Ombudsman.
- (c) Ensure that councillors and officers are kept up to date on new legislation and changes in the law which are relevant to the carrying out of the County Council's activities. This will generally take the form of reports and/or briefing notes to councillors and officers. Also, where appropriate, it will involve training sessions.

- (d) The Monitoring Officer will always seek to resolve any potential maladministration or illegality by identifying alternative and legitimate means of achieving the objective of the purpose.

3.2 In addition, the following arrangements and understandings between the Monitoring Officer, councillors and colleagues are designed to help ensure the effective discharge of the Monitoring Officer function:

- (a) The Monitoring Officer or his senior staff are consulted at an early stage on new policy proposals and on matters which have potentially significant legal implications.
- (b) The Monitoring Officer or his staff will have copies of all reports to Cabinet, Committees and Sub-Committees.
- (c) The Monitoring Officer is informed of all emerging issues of concern of a legal, ethical or constitutional nature.
- (d) In cases where third parties are appointed to act for the County Council, it will be necessary for the relevant Chief Officer to ensure that the terms of appointment satisfactorily address issues relating to lawfulness and compliance with the Council's Constitution.
- (e) The Monitoring Officer will report to the Council from time to time on the Constitution and on any necessary or desirable changes following consultation with the Chief Executive and Head of Finance in their role as the Council's Section 151 officer.

3.3 The Monitoring Officer will have the following rights:

- (a) To receive advance notice of meetings whether formal or informal between Chief Officers and members of the Cabinet or Committee Chairmen where any procedural, lawfulness or other constitutional issues are likely to arise and will have the right to attend and speak at such meetings.
- (b) To receive advance notice of meetings of the Corporate Leadership Team and agenda and reports and the right to attend and speak.
- (c) To see all documents and information held by or on behalf of the County Council. However, this right does not extend to documents and information held by or on behalf of any political party represented on the Council.
- (d) To attend any meetings of officers or councillors (or both), whether or not such meetings include any other persons. However, this right does not extend to any meetings held by or on behalf of any political party represented on the Council.

- (e) To have access to any County Council officer or councillor, or any contractor to obtain an explanation of any matter under investigation.
- (f) To report to the Council, to the Cabinet and to any Committee, including a right to present a written report and to attend and advise orally.
- (g) To have direct access to the Chief Executive (as the Council's Head of the Paid Service) and to the Head of Finance (as the Council's Section 151 Officer).
- (h) To obtain, at the Council's reasonable expense, legal advice, either internally or from an independent external solicitor or barrister, on any matter within his functions.

4. Conflicts

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he has previously advised the County Council, he must consult the Chief Executive. The Chief Executive may then either refer the matter to a Deputy Monitoring Officer for investigation and report back to the Chief Executive or request a neighbouring local authority to make their Monitoring Officer available to the County Council to investigate the matter and report to the Chief Executive and/or the County Council as appropriate.

5. Deputy Monitoring Officers

The Monitoring Officer will nominate two members of staff to act as Deputy Monitoring Officer when he is unable to act owing to absence or illness and to assist him in the performance of his functions. The Monitoring Officer will keep them briefed on emerging issues.