

REPORT TITLE: MONITORING OFFICER'S ANNUAL REPORT 2023/24

28 NOVEMBER 2024

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WARD(S): ALL

PURPOSE

This is the third annual report of the Monitoring Officer and its purpose is to update members of the Audit and Governance Committee and provide an overview of the work of the office of the monitoring officer. This report covers the period November 2023 to 6 November 2024.

RECOMMENDATIONS:

1. That the Audit and Governance Committee notes the Monitoring Officer's Annual Report 2023/24.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 This report demonstrates a commitment to being an open and transparent council.

2 FINANCIAL IMPLICATIONS

- 2.1 None relating to this report.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 There are no procurement implications and relevant legislation is covered in the body of the report, by its nature.

4 WORKFORCE IMPLICATIONS

- 4.1 The office of the monitoring officer is made up the monitoring officer, 2 deputy monitoring officers and day to day support from democratic services.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 There are no property or asset implications.

6 CONSULTATION AND COMMUNICATION

- 6.1 A successful Monitoring Officer is one who has a good working relationship and open-door policy with all Councillors and members of staff. This is particularly important with relevant senior politicians and senior officers. The Monitoring Officer for the period of this report is confident that they have forged those relationships.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 There are none relating to this report.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 None arising from the content of the report, although officers will have regard to the considerations as set out in the Equalities Act 2010 and whether an equality impact assessment will be required to be undertaken on any specific recommendations or future decisions made. This report is not making any decisions and is for noting and raising issues only.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required for this report which does not name individuals or process personal data.

10 RISK MANAGEMENT

10.1 Risks in respect of the office of the Monitoring Officer relate to legal challenge and reputation. Each individual complaint is not risk assessed in the traditional sense but the office are usually dealing with individuals who, at the point in time they have made contact with us, are emotional whether that be deeply upset or incredibly angry. Care must be taken to deal with these matters sensitively without showing bias or pre-determination in any matter.

11 SUPPORTING INFORMATION:

The Role of the Monitoring Officer

11.1 The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer and this is a function of Full Council. The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with Codes and Protocols and promoting good governance and high ethical standards. This report covers the period April 2021 to March 2022. The Monitoring Officer does not **have** to have formal legal training but have access to legal advice if not so qualified. The current Monitoring Officer is a solicitor.

A Summary of the Monitoring Officer's Functions is as follows:

Description	Source
Report on contraventions or likely contraventions of any enactment or rule of law	Local Government and Housing Act 1989
Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Local Government and Housing Act 1989
Appoint a Deputy	Local Government and Housing Act 1989
Establish and maintain the Register of Members' interests	The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 The Localism Act 2011 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Report on sufficiency of resources	Local Government and Housing Act 1989
Maintain the Constitution	The Constitution

Description	Source
Promote and maintain high standards of conduct	The Localism Act 2011
Grant Dispensations	The Localism Act 2011 and delegation from Council
Consulting with, supporting and advising the Head of Paid Service and s.151 Officer on issues of lawfulness and probity	The Constitution
Appointing an Investigating Officer in relation to Member Complaints	The Localism Act 2011 and the Constitution
Advising the Audit and Governance Standards Sub Committee in relation to allegations of breaches of the Code of Conduct and advising when matters are determined following an investigation	The Localism Act 2011 and the Constitution
Advise on whether executive decisions are within the Budget & Policy Framework	The Constitution
Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members	s.5 of Local Government and Housing Act 1989 and the Constitution
Legal Advice and Support to the authority alongside legal services	The Constitution
Considering whether certain Information is exempt from disclosure under the Freedom of Information Act	Freedom of Information Act 2000

The Constitution

- 11.2 The Constitution sets out how the council operates and how decisions are made. It sets out the procedures which are followed to ensure that decisions are efficient, transparent and that those who make the decisions are accountable for them. The monitoring officer is responsible for ensuring that the constitution operates efficiently, is properly maintained and followed.
- 11.3 The latest constitution was adopted by Full Council in November 2023 and is considered to be working well. It is anticipated that Full Council will receive a report early in the new year to agree some updates undertaken by the monitoring officer in respect of new legislation, a previous omission, typographical and structural changes.
- 11.4 At its last meeting of Full Council the Local Government Association (LGA) Model Code of Conduct was, unamended, adopted as the Code of Conduct for Winchester City Council and will be encouraged to be adopted in the same fashion by Parish and Town Councils across the District. There are some that have already done so.

- 11.5 In addition the new monitoring officer was appointed with immediate effect at that Full Council meeting and therefore the next Annual Report in November 2025 will be that of Gareth John. The code of conduct guidance documents and arrangements for dealing with complaints in on the same agenda as this report.

Statutory Monitoring Officer Reports

- 11.6 There were no occasions where the monitoring officer had reason to believe that there was a likelihood that the Council was about to take a decision that would be unlawful or give rise to maladministration. Consequently, no reports have been issued to the council under Section 5(2) of the Local Government and Housing Act (1989).

Independent Persons

- 11.7 3 new independent persons were recruited during 2024 with interviews being held with a panel comprised of the Cabinet Member and members of the Audit and Governance Committee and the subsequent appointment being confirmed in a Full Council meeting. Inductions have since been undertaken with the office of the monitoring officer team and introductions made to the new monitoring officer.

Complaints

- 11.8 In total there were 15 complaints received during 23/24 which is similar in number to those received in 22/23, though not as high as 21/22 where this number was almost double.
- 11.9 These 15 complaints can be split between 3 City Councillors and 12 Parish Councillors.
- 11.10 In respect of any patterns the complaints were made up of 3 main events/circumstances connected to 3 Parish Councils resulting in 13 complaints.
- 11.11 There is only 1 of those 15 complaints that remains open which is a Parish Councillor complaint that is currently under investigation with interviews being completed.
- 11.12 The total time spent on closed complaints in the 2024/25 municipal year is 175 hours.
- 11.13 In terms of total time spent over the 3 year period 2022, 2023 and 2024, one Parish Council has had the most attention from the office of the monitoring officer. Report AG098 was presented to the Audit and Governance Committee on 2 March 2023 that outlined the findings of a code of conduct investigation relating to 12 code of conduct complaints all made from within Denmead Parish Council and investigated during 2022.

- 11.14 Much of our work relates to receiving calls and emails of concern and asking for advice and these do not always lead to complaints being received. I am concerned that in 2024 my reflections indicate that the progress hoped for has not been made and I therefore raise this as part of my Annual Report. It is only fair to confirm there have been no further referrals for a full investigation in accordance with the arrangements for dealing with complaints nor any findings of a breach of the code during 2024. I have asked the new Monitoring Officer to review the work undertaken after the March 2023 meeting, work and liaise with the parish council, and report back to this committee.

Code of Practice on Good Governance for Local Authority Statutory Officers

- 11.15 In June 2024 LLG (Lawyers in Local Government), CIPFA (Chartered Institute of Public Finance and Accountancy) and Solace (Society of Local Authority Chief Executives) launched the Code of Practice on Good Governance for Local Authority Statutory Officers. The introduction to the code states;

“This Code of Practice for Good Governance provides advice and sets expectations for local government’s three highest profile statutory roles of Head of Paid Service, Chief Finance Officer, and Monitoring Officer. The aim of the Code is to enable them to effectively work together in what is known as the ‘Golden Triangle’ to best advise their authority, implement its decisions, and help achieve good outcomes.

These three roles are senior, critical, and influential positions within a local authority, and have collective responsibility for governance. For the individuals concerned, it is our privilege to undertake the work, delivering positive results with a tangible impact. When done well, the postholders can leave an authority with a lasting, inspiring legacy.

Best practice in working arrangements will enable the postholders to perform to the best of their ability. However, as recent failures have clearly and repeatedly demonstrated, where the posts do not operate effectively as a team, their advice is not afforded proper respect, where there is a poor culture, or what they have to say is not heard or understood, governance and decision making suffers and the consequences for local communities can be severe.

It is therefore important that these statutory officer posts, their roles and why they exist are understood, respected, and given the support required for their duties to be undertaken to the full.

Additionally, it is important for those in, or aspiring to be in, these roles to understand the power that they wield, its potential impact on others and the responsibility that comes with it. The roles have a unique part to play in modelling good behaviour in governance, calling out poor behaviour, and actively demonstrating the Nolan Principles in practice.”

The Code is produced in full in Appendix 1.

National Picture

- 11.16 As a general observation and looking at the national picture in 2024 the importance of governance cannot be underestimated, and lessons must be learnt from others. Most recently the first Best Value Commissioners Report in relation to Birmingham City Council (BCC) was delivered to the Ministry of Housing, Communities and Local Government in April 2024 and made public on 22 October 2024. The report states;

“While there are clearly financial and performance problems, at the root of BCC’s difficulties lie problems of poor governance. These are well described in the Centre for Governance & Scrutiny’s (CfGS) Independent Governance Review, published in November 2023, whose findings were accepted in full by the Council.

These findings are, in essence, a repeat of those of the Kerslake Review ten years previously, which were also accepted by the authority at that time. Very similar issues were reiterated by the SEND Commissioner in 2022 following which BCC made what turned out to be another empty commitment to review its governance.

That previous actions were not apparently implemented or embedded in behaviour indicates a prolonged or cultural reluctance to accept the need for or difficulty in implementing change. The scope of the governance challenges ranges from the more technical, such as the roles and responsibilities of audit and scrutiny, through to more abstract but at least as important issues around organisational behaviours and culture. These include poor officer-member relations, inappropriate personal and professional behaviours, a failure to sustain a consistent view of leadership and its demands and priorities both between members and officers and between officers, and a failure to follow through policies once agreed.”

- 11.17 This is the most recent report in respect of governance failures in a Council setting, it was not the first and will not be the last and I bring this to your attention to assist Audit and Governance Committee in understanding the role of good governance in an organisation.
- 11.18 The role of good governance done well doesn’t get the good and positive attention it should. Good governance encourages robust decision making, effective and early scrutiny of decisions and better planning both for the immediate future and longer term. Good governance drives an authority’s ability to achieve its objectives, balance its books and secure the trust of residents, visitors and businesses.

On-going work for 24/25

- 11.19 Whilst not relevant to the annual report of the Monitoring Officer which focuses on the year 23/24 it is helpful for the Councillors of Audit and Governance Committee to understand the ongoing work being undertaken by the office of the monitoring officer. Priority will be with embedding the new code of conduct for the City Council. Training was recently conducted, and

the new Monitoring Officer will begin liaising and engaging with our Parish and Town Councils on this, with the offer of online training on the code of conduct and complaint handling procedures.

OTHER OPTIONS CONSIDERED AND REJECTED

Not updating this committee or reporting on these matters was not an option for the Monitoring Officer.

BACKGROUND DOCUMENTS:-

Previous Monitoring Officer Annual Reports:-

AG093 November 2022

AG052 June 2021

Other Background Documents:-

AG098 March 2023

APPENDICES:

Code of Practice on Good Governance for Local Authority Statutory Officers