

HAMBLETON DISTRICT COUNCIL

Report To: Audit, Governance and Standards Committee
27 March 2013

From: Director of Corporate Services

Subject: **MONITORING OFFICER PROTOCOL**

All Wards

1.0 PURPOSE AND BACKGROUND:

- 1.1 The Council's Constitution (Article 12 and Part 5) provides a Monitoring Officer Protocol which governs the role of and support to be given to the Monitoring Officer.
- 1.2 Because of recent changes, particularly to the Standards Regime the Protocol needs changing and this report asks the Committee to recommend Council to make those changes.

2.0 THE NEW PROTOCOL:

- 2.1 The revised Protocol is attached as an Annex to this report. The changes are of a minor nature, including job titles, and reflect the new Standards Regime.

3.0 RECOMMENDATION:

- 3.1 It is recommended that Council be asked to adopt the revised Monitoring Officer Protocol in the Annex.

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Background papers: None.

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REVISED MONITORING OFFICER PROTOCOL

A. GENERAL INTRODUCTION:

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 at Hambleton District Council.
2. The responsibilities of the Monitoring Officer role rest with the Director of Corporate Services. The Deputy Monitoring Officer is the Legal Manager or in his/her absence such other person as the Monitoring Officer shall appoint in writing.
3. A summary list of the statutory responsibilities appears in the table annexed to this document.

B. WORKING ARRANGEMENTS:

4. Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of 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 assistant) to discharge the Council's statutory and discretionary responsibilities.
5. The following arrangements and understandings between the Monitoring Officer, Members and Senior Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
 - (a) be alerted by Members or Officers to any issue(s) of concern, 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 at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) including the Council, Cabinet, Cabinet Member (when allowed) Committee meetings and Management Team (or equivalent arrangements);

- (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and Management Team (or equivalent arrangements);
- (d) 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 functions;
- (e) liaise with the other statutory officers (Head of Paid Service and the Chief Financial Officer) regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (f) meet regularly with the Head of Paid Service and the Chief Financial 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 and ensure that the Head of Paid Service and Chief Financial Officer have up to date information regarding emerging issues;
- (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Financial Officer;
- (h) as per the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources he requires to discharge his statutory functions;
- (i) have a special relationship with the Chairmen of the Audit, Governance and Standards Committee and Scrutiny Committees with a view to ensuring the effective and efficient discharge of his duties;
- (j) develop effective working liaison and relationship with the Ombudsman, including the giving and receiving of relevant information, whether confidential or otherwise;
- (k) maintain and keep up to date any relevant statutory Register for the declaration of Members' Interests.
- (l) give advice on the Council's Code of Member Conduct and, if appropriate, inform the Audit, Governance and Standards Committee if, in the opinion of the Monitoring Officer, there is a serious breach of the Code;
- (m) in consultation, as necessary, with the Chairmen of the Council and the Audit, Governance and Standards Committee, defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigation body is involved;
- (n) make arrangements to ensure effective communication between his office and the Clerks to Parish Councils on Monitoring Officer and Standards issues;
- (o) have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;

- (p) be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues; and
 - (q) keep the Deputy Monitoring Officer briefed on any relevant issues that he/she may be required to deal with in the absence of the Monitoring Officer.
6. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 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.
 7. The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g., Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc.).
 8. To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

March 2013

SUMMARY OF MONITORING OFFICER FUNCTIONS

	<u>DESCRIPTION:</u>	<u>SOURCE:</u>
1.	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 of the Local Government and Housing Act 1989.
2.	Report any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 of the Local Government and Housing Act 1989.
3.	Appointment of Deputy.	Section 5 of the Local Government and Housing Act 1989.
4.	Report on resources.	Section 5 of the Local Government and Housing Act 1989.
5.	Establish and maintain Registers of Members' Interests.	Localism Act 2011.
6.	Advice to Members on interpretation of Code of Member Conduct.	Localism Act 2011.
7.	Promoting and maintaining high standards of conduct through support to the Audit, Governance and Standards Committee.	Localism Act 2011.
8.	Provide support to Parish Councils.	Localism Act 2011.
9.	Compensation for maladministration.	Section 92 of the Local Government Act 2000.