

MONITORING OFFICER PROTOCOL

MIDDLESBROUGH BOROUGH COUNCIL MONITORING OFFICER PROTOCOL

A GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

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 in Middlesbrough Borough Council.
2. The current responsibilities of the Monitoring Officer role rest with the Council's Monitoring Officer/Head of Legal and Democratic Services, who undertakes to discharge ~~her~~ their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, ~~she~~ they will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
3. A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
 - a) complying with the law (including any relevant Codes of Conduct);
 - b) complying with any General Guidance issued, from time to time, by the Standards Committee, the Government and the Monitoring Officer;
 - c) making lawful and proportionate decisions, and
 - d) generally, not taking action that would bring the Council, their offices or professions into disrepute.
4. In the interests of good working relationships, prior to the issuing of a report under Section 5 of the Local Government and Housing Act 1989, the Monitoring Officer will consult with the Head of Paid Service and the Chief Finance Officer; however, the decision as to whether or not to issue a Section 5 report is solely one for the Monitoring Officer.

B WORKING ARRANGEMENTS

- 4.5. Having good working relations with Members and Officers will assist in the discharge of the statutory responsibilities on the Monitoring Officer and keep the Council out of trouble. 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 staff) to discharge the Council's statutory and discretionary responsibilities.
- 5.6. The following arrangements and understandings between the Monitoring Officer, Members and Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:
 - (a) report to the Council and to the Executive in any case where the Monitoring Officer ~~he~~ is of the opinion that any decision or proposal of the Authority in respect of any reportable incident (being any matter which, in the Monitoring Officer's ~~his~~ opinion, has given rise to or is likely to or would give rise to any

illegality, maladministration or breach of statutory code under Section 5 and 5A of the Local Government and Housing Act 1989);

- (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Committee meetings, Executive and/or Senior Leadership 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, Committee meetings, Executive and/or Senior Management Team (or equivalent arrangements);
- ~~(d) — act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive.~~
- ~~(e)~~(d) carry out any investigation(s) where the Monitoring Officer ~~he~~ believes a matter may constitute a reportable incident, and have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;
- ~~(f)~~(e) ensure that other statutory officers (Head of Paid Service and the Chief Finance Officer-) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- ~~(g)~~(f) meet regularly with the Head of Paid Service and the Chief Finance 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;
- ~~(h)~~(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 Finance Officer-;
- ~~(i)~~(h) as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources the Monitoring Officer ~~he~~ requires to discharge his statutory functions, and the Council shall ensure that the Monitoring Officer has sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
- ~~(j)~~(i) have a special relationship of respect and trust with the Elected Mayor, the Chairman of the Council and the Chairman of the Licensing, Standards, Overview & Scrutiny and Planning Committees, with a view to ensuring the effective and efficient discharge of Council business;
- ~~(k)~~(i) develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation

payments up to £5,000 for alleged or actual maladministration found against the Council;

~~(k)~~(k) maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;

~~(l)~~(l) act as Principal Adviser to the Standards Committee;

~~(m)~~(m) give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Standards ~~Sub~~ **Hearings** Committee;

~~(n)~~(n) be responsible for Complaints, Local Commissioner and Whistle-blowing functions of the Authority;

~~(o)~~(o) in consultation, as necessary, with the Chairs of the Council and ~~the~~ Standards Committee, defer the making of a formal report under Section 5 ~~of the~~ Local Government and Housing Act 1989 where another investigati**o**ng body is involved;

~~(q)~~ ~~be the Proper Officer for the Freedom of Information Act 2000;~~

~~(p)~~(p) investigate any application for a dispensation and report and recommend to the Standards Committee;

~~(s)~~ ~~have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;~~

~~(g)~~(g) undertake all statutory Monitoring Officer functions in respect of Parish Councils within the area of the Authority and to provide support and advice to such Parish Councils in maintaining probity, including:

- (1) advice on the requirement for them to adopt a Local Code;
- (2) advice on the requirement upon Members to sign an undertaking to observe their Authority's Local Code within two months of the Authority adopting its Local Code;
- (3) advice on the requirement for Members to notify the Monitoring Officer of any financial or other interests and of any changes in such interests, that such declarations will form part of a public register, means of gaining access to that register, and of any arrangements to ensure that Parish Council Clerks are kept informed of any such declarations;
- (4) advice on the need to apply to the Standards Committee for any dispensations and of the arrangements agreed by the Standards Committee for receiving and determining any such applications, and for maintaining a register of such dispensations and advising the applicant and the Council of any dispensations which are granted;
- (5) advice on any provisions under which individual complaints of misconduct by Members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committee for dealing with such complaints; ~~and~~

- (6) advice to individual Members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a dispensation, and on any consequent restrictions on the Member's participation in consideration of the matter; ~~and~~
- (7) subject to the approval of the Standards Committee, be responsible with others for preparing any training programme for Members on ethical standards and Code of Conduct issues; ~~and.~~

~~(u)~~(r) appoint a ~~deputy-Deputy~~ or ~~deputies-Deputies~~ and keep them briefed on any relevant issues that they may be required to deal with in the absence ~~or sickness~~ of the Monitoring Officer ~~(such absence or sickness being more than transitory)~~;

~~(v)~~(s) after consultation with the Head of Paid Service and the Chief Finance Officer, notify the Police, the Authority's auditors and other regulatory agencies of ~~the Monitoring Officer's~~ his concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;

~~(w)~~(t) obtain at the Authority's expense, specialist legal advice, either internally or from an independent external solicitor or barrister, on any matter, which ~~the Monitoring Officer~~ he believes, may be a reportable incident.

~~6-7.~~ 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.

~~7-8.~~ The Monitoring Officer and the Deputy Monitoring Officers are 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. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).

~~8-9.~~ (a) The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality, etc., or by identifying alternative and legitimate means of achieving the objective of the proposals. Accordingly, Officers and Members of the Authority may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer and member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;

(b) Where the Monitoring Officer receives a complaint of a potential reportable incident, ~~he-they~~ shall, in appropriate cases, seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such import that a statutory report is the only appropriate response;

(c) In appropriate cases, the Monitoring Officer may rely upon existing processes within the Authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;

- (d) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add ~~his~~their written advice to the report of any other officer of the Authority;
- (e) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the Chief Finance Officer, ~~the Monitoring Officer he~~ is of the opinion that such is necessary in order to respond properly to a reportable incident.

9-10. To ensure the effective and efficient discharge of this Protocol, the Chief Finance 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.~~

C SANCTIONS FOR BREACH OF MIDDLESBROUGH'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL

10. Any complaint which indicates that there may have been a breach of the Code of Conduct for Members must be referred to the Monitoring Officer. The Monitoring Officer considers the complaint and determines whether the conduct complained of has occurred within the six months immediately preceding the submission of the complaint. If it has not, the Monitoring Officer will notify the Complainant that the complaint is out of time, and closes the Complaints file; if it has, the Monitoring Officer contacts the Independent Person to discuss the content of the Complaint, and to consider whether an investigation is warranted. Complaints against any breach of this protocol by a Member may be referred to the Standards Hearings Sub Committee and to the relevant Leader of the Political Party Group. Complaints against any breach of this protocol by an Officer may be referred to the Head of Paid Service or their designated representative.

11. 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 Authority, he shall consult the Head of Paid Service who may then either refer the matter to ~~the a~~ Deputy Monitoring Officer for investigation and report back to the Head of Paid Service or request a neighbouring Authority to make their Monitoring Officer available to the Authority to investigate the matter and report to the Head of Paid Service and/or the Authority as appropriate.

SUMMARY OF MONITORING OFFICER FUNCTIONS
IN CONSULTATION WITH THE HEAD OF PAID SERVICE

WHERE APPROPRIATE

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government & Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government & Housing Act 1989
3	To review regularly the Council's standing orders, regulations, codes and procedures to ensure they are up-to-date and comply with statutory and best practice requirements.	
4	To monitor Committee agenda, reports and general decision-making to ensure that no proposals or decisions breach the law or amount of maladministration.	
5	To advise Members and Officers on propriety issues when required.	
6	To receive (and consider) copies of certificates under the Local Authorities (Contracts) Regulations 1997.	
7	To monitor and revise the assist the Council in the preparation of its new local Code of Conduct for Members or any revisions to that Code (incorporating where appropriate model code optional provisions) as necessary, via the <u>Chair of the Standards Committee, the Constitution and Members' Development Committee, and Council.</u>	
8	To assist the Standards Committee of the Council in its functions and, more particularly, promoting/maintaining Member conduct and assisting Members observe the code.	LGA 2000 Sections 51(4) 54(2) as amended by the Localism Act 2011
9	To establish and maintain a register of Members' (including co-opted) financial and other interests and make it available for public inspection.	LGA 2000 Section 81 (1)

10	To advise the Standards Committee on the granting of dispensations to Members.	LGA 2000 Section 81 (4), (5) as amended by the Localism Act 2011
	<u>Description</u>	<u>Source</u>
11	To assist the Standards Committee in the exercise of its functions relating to Parish Councils in its area, including promoting/maintaining Member conduct and advising on local code.	LGA 2000 Section 55 (1), (2) as amended by the Localism Act 2011
12	To receive decision notices from interim case tribunals and advise the Standards Committee on effect/steps to be taken.	LGA 2000 Section 78 (7) as amended by the Localism Act 2011
13	To receive decision notices from case tribunals on behalf of the Standards Committee and advise the Committee on steps (if any) to be taken.	LGA 2000 Section 79 as amended by the Localism Act 2011
14	To advise the Standards Committee on steps to be taken by the Council following receipt of a case tribunal's recommendations relating to function/code/Standards Committee.	LGA 2000 Section 80 (3) as amended by the Localism Act 2011
15	As a matter of good practice to report to the Council annually on operation of the internal and external complaints systems, and use of the 'whistleblowing' procedures.	1998 White Paper para 6.42 LGMB guidance, Public Interest Disclosure Act 1998
16	To consider conducting an annual propriety audit within Council as a preventative measure.	
17	Appointment of <u>a Deputy or Deputies</u> .	Section 5 Local Government & Housing Act 1989
18	Report on Resources.	Section 5 Local Government & Housing Act 1989
19	Receive copies of whistleblowing allegations of misconduct.	Model Code
20	Advice to Members on interpretation of Code.	Model Code and Consultation Paper
21	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance paragraph 8.20
	<u>Description</u>	<u>Source</u>
22	New Ethical framework functions in relation to Parish Councils.	Section 83 (12) LGA 2000

23	Compensation for maladministration	Section 92 LGA 2000
24	Advice on vices issues, maladministration, impropriety, probity and policy framework to all Members.	DETR guidance
25	Acting as Lead Officer for the Standards Committee.	

STATUTORY OFFICER PROFILES

STATUTORY OFFICER PROFILES

HEAD OF PAID SERVICE

INDIVIDUAL STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES

It shall be the duty of the Head of Paid Service, where they consider it appropriate to do so, to prepare a report to the Authority setting out their proposals. Those matters are:

- the manner in which the discharge by the Authority of their different functions is co-ordinated;
- the number and grades of staff required by the Authority for the discharge of their functions;
- the organisation of the authority's staff;
- the appointment and proper management of the Authority's staff.

A copy of the report should be sent to each member of the Authority.

The Head of Paid Service may not be the Monitoring Officer but may hold the post of chief finance officer if a qualified accountant.

The Head of Paid Service will:

- ◆ _____ have responsibility for the Council's management functions;
- ◆ be responsible for establishing a framework for management direction, style, and standards, and for monitoring the performance of the organisation;
- ◆ determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers;
- ◆ report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers;
- ◆ be responsible for the corporate and overall strategic management of the Authority.
- ◆ be responsible for establishing a framework for management direction, style and standards; and for monitoring the performance of the organisation.
- ◆ represent the Authority on partnership and external bodies, in accordance with the scheme of delegation;
- ◆ publish once a year a notice in at least one local newspaper regarding the Forward Work Programme.

CHIEF FINANCE OFFICER

CONSTITUTIONAL AND STATUTORY RESPONSIBILITIES

The Chief Financial Officer will

IN ENSURING LAWFULNESS AND FINANCIAL PRUDENCE OF DECISION MAKING

- ◆ be responsible for the administration of the financial affairs of the Council;
- ◆ be responsible for all financial elements of the Corporate Governance of the Council;
- ◆ after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor, if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully;
- ◆ be responsible for setting and monitoring standards and reserve the right to be involved in the appointment of all staff employed in posts designated as requiring a qualified accountant or auditor;
- ◆ in compliance with section 114 of the Local Government Finance Act 1998, report to the full Council, Executive and external auditor if the Authority or one of its officers has made or is about to make a decision which involves or would involve the Council in incurring expenditure which is unlawful; has taken or is about to take a course of action which, if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency is on the part of the Council; is about to enter an item of account, the entry of which is unlawful;
- ◆ produce a report if it appears that the expenditure proposed by the Council in a financial year is likely to exceed the resources available to meet that expenditure;
- ◆ report to the Executive each year on the general financial situation of the Council and upon future financial scenarios in relation to the coming year's budget prospects and long term trends;
- ◆ be responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Executive, before full submission to the Council. Each Strategic/Assistant Director shall prepare annually a forward revenue budget in accordance with the criteria specified by the Chief Finance Officer;
- ◆ report to the Executive not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his delegated treasury management powers;

IN RELATION TO THE ADMINISTRATION OF FINANCIAL AFFAIRS

- ◆ have statutory responsibility for the financial administration and the stewardship of the Authority arising from the Section 151 of the Local Government Act 1972, The Local Government Finance Act 1988, The Local Government and Housing Act 1989, and The Accounts and Audit Regulations 1996;
- ◆ be responsible for: the proper administration of the Authority's financial affairs; setting and monitoring compliance with financial monitoring standards; advising on the corporate financial position and on the key financial controls necessary to secure

sound financial management; providing financial information; preparing the revenue budget and the capital programme; treasury management, pension and trust funds; and advice on the safeguarding of assets including risk management and insurance;

- ◆ be responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Executive and for approval to the full Council. Also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or the Executive;
- ◆ in accordance with Section 114 of the Local Government Finance Act 1998 nominate a properly qualified member of staff to deputise should they be unable to perform the duties under Section 114 personally;
- ◆ approve all financial procedures, records, systems and accounts operated through the Council including any changes which are subsequently proposed;
- ◆ be responsible for keeping the principal accounting records for all services of the Council; that the accounts and accompanying reconciliation's are properly prepared and presented for audit in accordance with relevant guidelines and statutes; undertake the day to day management of the financial work of the Council; provide advice on the retention and safe custody of all accounting records; produce and circulate to relevant officers a set of guidance notes for the production of final accounts; present the Statement of Accounts for the year in question to the Council's external auditors; and retain copies of the Statement of Accounts;
- ◆ be informed of the existence of all 'unofficial funds' and shall issue and update accounting instructions for them where necessary; (n.b.) An 'Unofficial Fund' is any fund where the income and expenditure does not form part of the Council's accounts but which is controlled wholly or in part by an officer by reason of employment by the Council or employment, e.g. the Governors of a school or other semi-autonomous body);
- ◆ be authorised to pay all amounts to which the Council is legally committed;
- ◆ make imprest advances to officers for the purpose of defraying petty cash expenses and issue instructions on the control and operation on the imprest account;
- ◆ have the final approval to authorise arrangements for payments to be automatically debited from the Council's bank account;
- ◆ set out the arrangements necessary to ensure that all monies due are received and banked promptly;
- ◆ along with the Monitoring Officer, take all reasonable steps to obtain recovery of debts;
- ◆ be responsible for all Executive decisions on borrowing, investment or financing delegated to the Chief Finance Officer who shall be required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities;
- ◆ be responsible for the administration and day to day operation of the Council's borrowings for all purposes and shall raise, repay or vary the terms of loans as necessary.
- ◆ be the registrar for all stocks, bonds and mortgages of the Council and shall maintain records of all transactions relating thereto, and of all borrowings of money by the Council;

- ◆ be responsible for ensuring that secure arrangements are made for the preparation and holding of pre-signed cheques, stock certificates, bonds and other financial documents;
- ◆ ensure that adequate insurance protection is maintained for the Council's assets and operations where it is considered to be cost effective and appropriate;
- ◆ be responsible for the negotiation of all the Council's insurance contracts and have delegated responsibility for the maintenance of an adequate and effective internal audit;
- ◆ ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and ensuring that the risks have been fully appraised before agreements are entered into with external bodies;
- ◆ ensure that exemptions to Standing Orders must be recorded, signed by the Strategic/Assistant Director and countersigned by the Chief Finance Officer. All exemptions must be monitored;
- ◆ consult the Monitoring Officer and the Strategic Commissioning and Procurement Technical Manager where contracts to work for organisations other than the Council are contemplated;
- ◆ take advice from the Monitoring Officer, and the Strategic Commissioning and Procurement Officer must be consulted where contracts to work for organisations other than the Council are contemplated;
- ◆ ensure that Best Value and Partnership Arrangements comply with all United Kingdom and EC Procurement legislation and follow the usual principles in Standing Orders. The advice of the Monitoring Officer, and the Strategic Commissioning and Procurement Officer must be taken;
- ◆ The Chief Finance Officer shall have the power to make technical amendments to Standing Orders to make them consistent with legal requirements;

IN CONTRIBUTING TO CORPORATE MANAGEMENT

- ◆ contribute to the corporate management of the Council, in particular through the provision of professional financial advice;

IN PROVIDING ADVICE/INFORMATION

- ◆ provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the Elected Mayor and support and advise the Elected Mayor, councillors and officers in their respective roles;
- ◆ be responsible for issuing advice and guidance to underpin the financial regulations that the Elected Mayor, councillors and officers and others acting on behalf of the Authority are required to follow;
- ◆ be responsible for advising on effective systems of internal control. Those arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.

- ◆ provide advice on Risk with every Strategic/Assistant Director having a responsibility to support these initiatives;
- ◆ Provide financial information to the media, members of the public and the community.

MONITORING OFFICER

STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES

- ◆ ~~Unless Council determines otherwise, t~~The Monitoring Officer shall be the Council's chief legal officer.
- ◆ The Monitoring Officer shall be responsible for all non-financial elements of the Corporate Governance of the Council;
- ◆ It is the duty of the Monitoring Officer to prepare a report to the Council with respect to any proposal, decision or omission by the Council, committee, sub-committee or officer which could give rise to unlawfulness, maladministration or injustice.
- ◆ In preparing the report there is a duty to consult with the Head of Paid Services and the Chief Finance Officer and then arrange for a copy of it to be sent to each member of the Authority.

The Monitoring officer cannot be the Chief Finance Officer or the Head of Paid Service.

The Monitoring Officer will:

IN RELATION TO THE CONSTITUTION

- ◆ provide access to an electronic copy of the Constitution ~~to each~~for all members of the Authority, ~~ensure a like copy is available for inspection by members,~~ staff and the public, ~~on~~via the Council's website, and ensure that any updated version of the Constitution is ~~updated as necessary~~available within a reasonable period;
- ◆ maintain an up-to-date version of the Constitution;
- ◆ monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect;
- ◆ be aware of the strengths and weaknesses of the Constitution and make recommendations for ways in which it could be amended including observing meetings; undertaking audit trails of a sample of decisions; record and analyse issues raised by members, officers, public and stakeholders; compare practices with other comparable authorities or national examples of best practice;
- ◆ give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules;
- ◆ Be responsible for the system of record keeping in relation to all the full Council's decisions.

IN RELATION TO STANDARDS AND GOVERNANCE

- ◆ after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to full Council, or to the Executive in relation to an Executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report would have the effect of stopping the proposal or decision being implemented until the report had been considered;

- ◆ contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee;
- ◆ conduct investigations into complaints against elected -and co-opted Members, which after consultation with an Independent Person appointed for such purposes, are felt to have breached the Council's Code of conduct and make reports or recommendations in respect of them to the Standards Committee;
- ◆ conduct such other investigations as it appears to the Monitoring Officer are necessary to ensure appropriate corporate governance;
- ◆ ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible;
- ◆ advise on whether decisions of the Executive are in accordance with the budget and policy framework;
- ◆ provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the Elected Mayor;
- ◆ be responsible for Corporate Complaints, Ombudsman Cases, reviewing the Constitution and Whistle Blowing;
- ◆ ~~be responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation;~~
- ◆ be responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively;
- ◆ ensure that the Executive decisions and the reasons for them are made public;
- ◆ be responsible for advising the Elected Mayor, all councillors and officers about who has authority to take a particular decision;
- ◆ be responsible for referring to full Council any proposed variations to approved budgets, plans and strategies and which form part of the policy framework;
- ◆ be responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Authority;
- ◆ Receive written notice from the Elected Mayor on amendments to the scheme of delegation of Executive functions.

~~STATUTORY SCRUTINY OFFICER~~

~~STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES~~

~~It shall be the duty of the Statutory Scrutiny Officer~~

~~to promote the role of the authority's Overview & Scrutiny Board and Scrutiny Panels to provide support to the authority's Overview & Scrutiny Board and Scrutiny Panels, and to the Members of those committees to provide support and guidance to: members of the authority, including members of the Executive of the Council; and officers of the authority,~~

~~in relation to the Council's overview and scrutiny functions.~~

~~All of the above shall also apply to any sub-Committee, working party or other arrangement that undertakes Scrutiny function within or on behalf of the Council.~~

~~The Scrutiny Officer will not be the authority's Head of Paid Service, monitoring officer or chief finance officer.~~

~~The Statutory Scrutiny Officer will:~~

~~have responsibility for the overall management of the Council's Scrutiny functions as set out above;~~
~~be responsible for the corporate and overall strategic development of the Council's Scrutiny functions;~~
~~be responsible for establishing a framework for standards in respect of, and for the monitoring of, the performance of the Council's Scrutiny functions;~~
~~report to full Council on the manner in which the Council's Scrutiny functions have been discharged;~~
~~publicise the Council's Scrutiny functions within and outside the Council;~~
~~(Local Democracy, Economic Development and Construction Act 2009, s31)~~

~~COMPLAINTS MANAGER~~

~~STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES~~

~~It shall be the duty of the Complaints Manager:~~

~~to ensure that the Council fulfils its requirements in relation to: representations made under the Children Act 1989; complaints made under the Health & Social Care (Community Health and Standards) Act 2003, and the requirements of Part III of the Local Government Act 1974 to ensure best practice in relations to complaints and representation made to the Council to promote the authority's Complaint Procedures to provide support and guidance to Members of the authority, including members of the Executive of the Council and officers of the authority, in relation to the duties, practices and procedures in dealing with Complaints.~~

~~The above shall also apply to Independent Panels constituted under the requirements of the Children Act 1989 Representations Procedures (England) Regulations 2006.~~

~~The Complaints Manager will:~~

~~have responsibility for the overall management and overview of the Council's Complaints functions as set out above~~
~~be responsible for the corporate and overall strategic development of the Council's Complaints functions,~~
~~be responsible for establishing, updating, maintaining and publishing the framework for standards and practice in relation to complaints (the Corporate Complaints Procedures)~~
~~be responsible for the monitoring of the performance of the Council's Corporate Complaints Procedures~~
~~report to full Council on the manner in which the Council's Corporate Complaints Procedures have been discharged~~
~~publicise the Council's Complaints Procedures within and outside the Council;~~
~~ensure that the directorates with responsibility for discharging those functions provided for within the Children Act 1989 Representations Procedures (England) Regulations 2006 and the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 meet the requirements of those regulations~~

JOINT STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES

- ◆ The Head of Paid Service, in consultation with the Chief Finance Officer shall produce and circulate to all relevant officers a set of guidance notes for the production of the Capital Programme

The Monitoring Officer and the Chief Finance Officer will

- ◆ Give advice to the Executive, committees of the Executive, individual members of the Executive and any officers or joint arrangements discharging Executive functions on making decisions outside the budget or policy framework.
- ◆ Provide advice to the Overview and Scrutiny Board or a scrutiny panel on the process of call in of decisions, which if made, would be contrary to the policy framework or not in accordance with the Council's budget.
- ◆ Be responsible for advising the Executive or full Council whether a decision is likely to be considered contrary to or not wholly in accordance with the budget

The Head of Paid Service and the Monitoring Officer will

- ◆ Be responsible for the system of record keeping in relation to all the full Council's decisions

OTHER STATUTORY ROLE PROFILES

STATUTORY SCRUTINY OFFICER

STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES

The Statutory Scrutiny Officer shall be the Members and Statutory Services Manager. It shall be the duty of the Statutory Scrutiny Officer:

- to promote the role of the authority's Overview & Scrutiny Board and Scrutiny Panels
- to provide support to the authority's Overview & Scrutiny Board and Scrutiny Panels, and to the Members of those committees
- to provide support and guidance to:
 - members of the authority, including members of the Executive of the Council;
 - and
 - officers of the authority,

in relation to the Council's overview and scrutiny functions.

All of the above shall also apply to any sub-Committee, working party or other arrangement that undertakes Scrutiny function within or on behalf of the Council.

The Scrutiny Officer will not be the authority's Head of Paid Service, monitoring officer or chief finance officer.

The Statutory Scrutiny Officer will:

- have responsibility for the overall management of the Council's Scrutiny functions as set out above;
- be responsible for the corporate and overall strategic development of the Council's Scrutiny functions;
- be responsible for establishing a framework for standards in respect of, and for the monitoring of, the performance of the Council's Scrutiny functions;
- report to full Council on the manner in which the Council's Scrutiny functions have been discharged;
- publicise the Council's Scrutiny functions within and outside the Council;

(Local Democracy, Economic Development and Construction Act 2009, s31)

COMPLAINTS MANAGER

STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES

It shall be the duty of the Complaints Manager:

- to ensure that the Council fulfils its requirements in relation to:
- representations made under the Children Act 1989;
- complaints made under the Health & Social Care(Community Health and Standards) Act 2003, and
- the requirements of Part III of the Local Government Act 1974
- to ensure best practice in relations to complaints and representation made to the Council
- to promote the authority's Complaint Procedures
- to provide support and guidance to Members of the authority, including members of the Executive of the Council and officers of the authority, in relation to the duties, practices and procedures in dealing with Complaints.

The above shall also apply to Independent Panels constituted under the requirements of the Children Act 1989 Representations Procedures (England) Regulations 2006.

The Complaints Manager will:

- have responsibility for the overall management and overview of the Council's Complaints functions as set out above
- be responsible for the corporate and overall strategic development of the Council's Complaints functions,
- be responsible for establishing, updating, maintaining and publishing the framework for standards and practice in relation to complaints (the Corporate Complaints Procedures)
- be responsible for the monitoring of the performance of the Council's Corporate Complaints Procedures
- report to full Council on the manner in which the Council's Corporate Complaints Procedures have been discharged
- publicise the Council's Complaints Procedures within and outside the Council;
- ensure that the directorates with responsibility for discharging those functions provided for within the Children Act 1989 Representations Procedures (England) Regulations 2006 and the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 meet the requirements of those regulations

PROPER OFFICER FUNCTIONS

PROPER OFFICER FUNCTIONS

1. The Council has appointed the following Proper Officers:
2. Head of Paid Service:
 - (i) Head of Paid Service (Section 4, Local Government and Housing Act 1989).
 - ~~(ii) Acceptance of declaration of office of Chair and Vice Chair of the Council (Section 83 Local Government Act 1972).~~
 - ~~(iii) Notwithstanding 3 (i) of the functions of the Monitoring Officer, the Head of Paid Service will be the Proper Officer for distribution of all papers relating to the Executive.~~
3. Monitoring Officer
 - (i) Monitoring Officer (Section 5, Local Government and Housing Act 1989).
 - (ii) In relation to any reference in any enactments passed before or during the 1971–1972 session of Parliament, other than the Local Government Act 1972, or in any instrument made before 26th October 1972, to the Clerk of a Council or the Town Clerk of a Borough, which by virtue of any provision in the said Act, is to be construed as a reference to the Proper Officer of the Council.
 - (iii) Preparation, publication, distribution, and retention of papers and records of decisions taken by Council, Committees, Sub-Committees, Executive, Individual Executive Members, and Executive Sub-Committees (Local Government Act 1972).
 - ~~(v)(iv)~~ Section 6(3) Sheriffs Act 1887.
 - ~~(vi)(v)~~ Returning Officer and Electoral Registration Officer (Section 35 and Section 38 representation of the People Act 1983).
 - ~~(vii)(vi)~~ Acceptance of declaration of office of members (Section 83 Local Government Act 1972).
 - ~~(ix)(vii)~~ For the purposes of the Common Registration Act 1965 and the Commons Act 2006.
 - ~~(xi)(viii)~~ Section 82 Representation of the People Act 1983 (Election candidates expenses).
 - ~~(xiii)(ix)~~ Local Authorities (Members Interests) Regulations 1992.
 - ~~(xv)(x)~~ Section 61(2A) Local Government (Miscellaneous Provisions) Act 1976 issue of certificate of decision of Executive.
 - ~~(xvii)(xi)~~ Record of Executive Members prejudicial interests (Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments) Order 2001.
 - ~~(xix)(xii)~~ Determination of confidential and exempt reports and decisions of Executive (Local Authorities) (Executive Arrangements) (Access to Information) (England) Regulations 2000.

- ~~(xxi)~~(xiii) _____ Parish trustee (Section 13(3) Local Government Act 1972).
- ~~(xxiii)~~(xiv) _____ Receipt of declaration of resignation of office (Section 84 Local Government Act 1972).
- ~~(xxv)~~(xv) _____ Convening Council meeting to fill casual vacancy of Chair (Section 88(2) Local Government Act 1972).
- ~~(xxvii)~~(xvi) _____ Receipt of Notice of casual vacancy from 2 local government electors (Section 89(1)(b) Local Government Act 1972).
- ~~(xxix)~~(xvii) _____ Receipt and keeping of record notice of pecuniary interests (Section 96 Local Government Act 1972).
- ~~(xxxi)~~(xviii) _____ Access to information (Section 100 B-F Local Government Act 1972).
- ~~(xxxiii)~~(xix) _____ Freedom of Information requests (Freedom of Information Act 2000).
- ~~(xxxv)~~(xx) _____ Charity functions of offices with existing authorities transferred to holders of equivalent office with new authority (Section 210(6) and (7) Local Government Act 1972).
- ~~(xxxvii)~~(xxi) _____ Deposit of documents (Section 225(1) Local Government Act 1972).
- ~~(xxxix)~~(xxii) _____ Certification of photographic copies of documents (Section 229(5) Local Government Act 1972).
- ~~(xli)~~(xxiii) _____ Authorisation of documents (Section 234(1) and (2) Local Government Act 1972).
- ~~(xliii)~~(xxiv) _____ Copies of Bye-laws (Section 236(9) and (10) Local Government Act 1972).
- ~~(xlv)~~(xxv) _____ Certification of Bye-laws (Section 238 Local Government Act 1972).
- ~~(xlvii)~~(xxvi) _____ Roll of Freeman (Section 248 Local Government Act 1972).
- (xxvii) Signature of summonses to Council meetings (Schedule 12 para 4(2)(b) Local Government Act 1972).
- (xxviii) Receipt of notices of addresses to send summonses (Schedule 12 para 4(3) Local Government Act 1972).
- (xxix) Certificate of resolutions (Schedule 14 para 25(7) Local Government Act 1972).
- (xxx) Receipt a deposit of lists of protected buildings (Schedule 16 para 28 Local Government Act 1972).
- (xxxi) Rent Office Service (Section 63 Rent Act 1977).
- (xxxii) Receipt of notification from The Elected Mayor of the appointment and terms and conditions of appointment of The Elected Mayor's Assistant (The Local Authority Elected Mayor's and Mayor's Assistants Regulations 2002 (2002 SL 975)).

- (xxxiii) Receipt of notification from The Elected Mayor of any objections to the proposed appointments made by the Chief Officer Appointments Committee (The Local Authorities (Standing Orders) (England) Regulations 2001, as amended).
- (xxxiv) Proper Officer for the purpose of the Registration Services Act 1953.
~~(xlix) —~~
- ~~(iv) — For the purposes of the Common Registration Act 1965 and the Commons Act 2006.~~
- ~~(v) — Section 82 Representation of the People Act 1983 (Election candidates expenses).~~
- ~~(vi) — Local Authorities (Members Interests) Regulations 1992.~~
- ~~(vii) — Section 61(2A) Local Government (Miscellaneous Provisions) Act 1976 issue of certificate of decision of Executive.~~
- ~~(viii) — Record of Executive Members prejudicial interests (Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments) Order 2001.~~
- ~~(ix) — Determination of confidential and exempt reports and decisions of Executive (Local Authorities) (Executive Arrangements) (Access to Information) (England) Regulations 2000.~~
- ~~(x) — Acceptance of declaration of office of members. (Section 83 Local Government Act).~~
- ~~(xi) — Parish trustee (Section 13(3) Local Government Act 1972).~~
- ~~(xii) — Receipt of declaration of resignation of office (Section 84 Local Government Act 1972).~~
- ~~(xiii) — Convening Council meeting to fill casual vacancy of Chair (Section 88(2) Local Government Act 1972).~~
- ~~(xiv) — Receipt of Notice of casual vacancy from 2 local government electors (Section 89(1)(b) Local Government Act 1972.)~~
- ~~(xv) — Receipt and keeping of record notice of pecuniary interests (Section 96 Local Government Act 1972).~~
- ~~(xvi) — Access to information (Section 100 B-F Local Government Act 1972).~~
- ~~(xvii) — Charity functions of offices with existing authorities transferred to holders of equivalent office with new authority (Section 210(6) and (7) Local Government Act 1972).~~
- ~~(xviii) — Deposit of documents (Section 225(1) Local Government Act 1972)~~
- ~~(xix) — Certification of photographic copies of documents (Section 229(5) Local Government Act 1972).~~
- ~~(xx) — Authorisation of documents (Section 234(1) and (2) Local Government Act 1972).~~

- ~~(xxi) Copies of Bye laws (Section 236(9) and (10) Local Government Act 1972).~~
- ~~(xxii) Certification of Bye laws (Section 238 Local Government Act 1972).~~
- ~~(xxiii) Roll of Freeman (Section 248 Local Government Act 1972).~~
- ~~(xxiv) Signature of summonses to Council meetings (Schedule 12~~
- ~~(xxv) Receipt of notices of addresses to send summonses (Schedule 12 para 4(3) Local Government Act 1972).~~
- ~~(xxvi) Certificate of resolutions (Schedule 14 para 25(7) Local Government Act 1972).~~
- ~~(xxvii) Receipt a deposit of lists of protected buildings (Schedule 16 para 28 Local Government Act 1972.)~~
- ~~(xxviii) Rent Office Service (Section 63 Rent Act 1977).~~
- ~~(xxix) Receipt of notification from The Elected Mayor of the appointment and terms and conditions of appointment of The Elected Mayor's Assistant (The Local Authority Elected Mayor's and Mayor's Assistants Regulations 2002 (2002 SL 975).~~
- ~~(xxx) Proper Officer for the purpose of the Registration Services Act 1953.~~
- ~~(xxxi) Politically restricted post (Section 2 Housing and Local Government Act 1989) as amended by the Local Government and Public Involvement in Health Act 2007~~
- ~~(xxxii) Monitoring Officer (Local Government and Housing Act 1989)~~

4. Chief Finance Officer

- (i) Proper administration of financial affairs (Section 151 Local Government Act 1972).
- (ii) In relation to any reference in any enactment or instrument to a Borough Treasurer or Treasurer which, by any such provision is to be construed as a reference to the Proper Officer of the Council.
- (iii) Receipt of money due from officers (Section 115 Local Government Act 1972).
- (iv) Declarations and certificates with regard to securities (Section 146(1)(a) and (b) Local Government Act 1972.)

~~5. Head of Human Resources~~

- ~~(i) Politically restricted post (Section 2 Housing and Local Government Act 1989) as amended by the Local Government and Public Involvement in Health Act 2007.~~

65. Assistant Director of Environment, Property & Commercial Services

- (i) To receive applications under Section 1 Ordnance Survey Act 1841.

- (ii) In relation to any reference in any enactment or instrument to a Borough Engineer, Borough Surveyor, Surveyor or Head of Engineering which by any provision of the Local Government Act 1972, is to be construed as a Proper Officer of the Council.
- (iii) Traffic Manager –Traffic Management Act 2004.

76. ~~Assistant~~ Director of Public Health and Public Protection

- (i) In relation to any reference in any enactment or instrument to a Sanitary Inspector or Public Health Officer, which by any such provision is to be construed as a reference to the Proper Officer of the Council.
- (ii) Representation of unfit houses (Section 606 Housing Act 1985).
- (iii) Receipt of application for Licence under Schedule 2 Licensing Act 1964.

87. ~~Assistant~~ Director of Social Care and Health Integration

- ~~(i)~~ The Proper Officer appointed under Section 6 of the Local Authority Social Services Act 1970

98. ~~Strategic-Executive~~ Director of Children’s Services

- (i) The Proper Officer appointed under Section 18 of the Children Act 2004.