



Stockton-on-Tees
BOROUGH COUNCIL

**STOCKTON-ON-TEES BOROUGH COUNCIL
ANNUAL REPORT OF THE MONITORING OFFICER**

2008/09

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1. Introduction

This is the Annual Report of the Monitoring Officer for 2008/09. Its purpose is to provide an overview of the Monitoring Officer's work during that period and to highlight those issues that will require attention during 2009/10.

2. The Monitoring Officer's Duties and Responsibilities

2.1 The role of the Monitoring Officer derives from the Local Government and Housing Act 1989 ("the 1989 Act"), the Local Government Act 2000 ("the 2000 Act") and has been extended by the Local Government and Public Involvement in Health Act 2007 which requires the Monitoring Officer to advise the Standards Committee regarding its new functions relating to allegations of member misconduct and politically restricted posts. Details of the Monitoring Officer's functions have been set out in previous Annual Reports. These reports are accessible at <http://sbcinternet/yourcouncil/standprob/monofficer/>

2.2 Support for the Monitoring Officer

The support arrangements and resources which enable the Monitoring Officer to undertake the functions referred to in this and previous reports have continued to be developed and strengthened in 2008/09, particularly by the appointment of a Senior Officer who provides dedicated support for the purposes of the Authority's local assessment regime. The working relationships with the Head of Paid Service and Section 151 Officer have continued to be important, as are those with the rest of the Corporate Management Team, the Extended Management Team and the Corporate Governance Working Group, the Chief Internal Auditor, the Standards Committee and the External Auditor. Again, however, the support of the Head of Legal Services (the Deputy Monitoring Officer) and the Legal Service itself has been significant, together with the assistance provided by the Head of Democratic Services and all of the Democratic Services staff.

3. Constitution

3.1 The Constitution continued to be updated during 2008/09. The current version is accessible at <http://sbcinternet/yourcouncil/constitution/>.

3.2 Amendments of note included revised planning and licensing delegations, amendments to the scrutiny structure and changes to reflect the new arrangements for the local assessment of allegations of member misconduct.

3.3 The relevant report to the Standards Committee is accessible at <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>

Please refer to the minutes of the meeting of 25 September 2008.

4. Lawfulness and Maladministration

4.1 The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers. Part of this role involves monitoring Cabinet and Committee reports, agendas, decisions and procedures to ensure compliance with legislation and the Constitution (eg as regards access to information). The majority of this work is undertaken by Officers from Legal Services. The Monitoring Officer also has a duty to ensure that Cabinet decisions and their reasons are made publicly available. This is done by Officers from Democratic Services through the Council's website, by means of the e-genda system.

4.2 The robust governance arrangements established by the Council ensure that the necessity to report potentially unlawful decision-making is rarely used. No such reports were issued during 2008/09.

4.3 Reports from the Local Government Ombudsman

There were no reports from the Local Government Ombudsman in 2008/09 regarding actions or omissions which amounted to maladministration. The provisional statistics for 2008/09 indicate that enquiries and complaints received by the Ombudsman reduced, as did the number of decisions made; and that the Council's response time to first enquiries improved significantly.

5. Good Governance

5.1 The Monitoring Officer has continued collaborative working with the Council's other statutory Officers, as well as working in partnership with other Officers, groups and services to develop and disseminate guidance, policies and procedures. The focus for this work is the Corporate Governance Working Group, on which the Monitoring Officer sits, with the Section 151 Chief Finance Officer as Chair.

5.2 Corporate Governance Working Group

During 2008/09, the Corporate Governance Working Group undertook the following work (inter alia):-

- Review Risk Register
- Corporate Assessment feedback and action
- Review progress on Partnership health checks
- Business continuity planning
- Review Audit and Standards Committee Work Programme
- Audit Committee effectiveness

For 2009/10 the Group is intending to look at the following (inter alia):-

- New Use of Resources and Corporate Area Assessments
- Business continuity planning
- Risk Register review
- Partnership health checks
- New Employees model code of conduct

5.3 Ethical Governance

Ethical governance is an integral part of corporate governance. During 2008/09, steps continued to be taken to implement the action plans arising from the ethical governance audit and light touch health check carried out in 2006/07. A report was submitted to the 31 July 2008 meeting of the Committee (accessible at <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>).

5.4 Freedom of Information

The Monitoring Officer, as initial contact Officer, has an oversight role in relation to the Council's arrangements for ensuring compliance with the Freedom of Information ("FOI") legislation. A similar position exists in relation to the Environmental Information Regulations and the Re-Use of Public Sector Information Regulations. The Monitoring Officer is also the Primary Qualified Person for considering whether information is exempt from disclosure under Section 36 of the Freedom of Information Act. No such determinations were required in 2008/09.

5.5 Regulation of Investigatory Powers Act 2000 ("RIPA")

For 2008/09 there was a slight increase in the number of directed surveillance authorisations (19), but this was still at a low level, and there were again no covert human intelligence source authorisations. As a result of adverse national publicity about the use of RIPA in the UK, the validity of the Authority's authorisations was reviewed and considered to be lawful and appropriate.

5.6 Contract Procedure Rules

Oversight of the tender receipt and opening arrangements is to take place on a quarterly basis. This will include monitoring of the implementation of the proposed electronic tendering system.

5.7 Companies Act 2006

Guidance on the new statutory provisions which came into force during the year was provided to Members and Officers.

6. The Standards Committee

6.1 Background

The Standards Committee continued to be chaired by Francis Hayes, an Independent member. There are 2 other independent members of the Committee, one of whom is the Vice-Chair; 2 Parish Council representatives and 5 Borough Councillors. To increase capacity and flexibility for the purposes of local assessment of complaints, a substitute independent member and parish representative were also appointed, together with a panel of five elected member substitutes.

6.2 Meetings

The Committee's meetings, reports and minutes are accessible and made available to all Members of the Council and the public. Agendas and minutes can be accessed through the Democratic Services' e-genda system via the Council website and through the intranet.

The appropriate link is

<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>

6.3 **Annual Report**

The Standards Committee's Annual Reports can be seen at

<http://sbcinternet/yourcouncil/standprob/standcomm/>

7. **The Ethical Framework and Support to the Standards Committee**

7.1 As lead Officer for the Standards Committee, the Monitoring Officer has a key role in promoting the Council's Ethical Framework and high standards of conduct within the authority. This includes the maintenance of the Members and Officers Registers of Interests and Gifts and Hospitality.

7.2 **Maintaining Register of Member Interests and Register of Gifts and Hospitality**

The Monitoring Officer is responsible for establishing and maintaining a Register of Members Interests. This is held within the office of the Monitoring Officer and is also accessible through the Council's website. The register is updated following the Council's Annual Meeting each year and periodically thereafter as Members advise of changes to their entries on the register. Members' Gifts and Hospitality is also recorded on the interests register. Regular reminders of the need to keep it up to date continued to be provided to all Members. Reports also continued to be submitted to and considered by the Standards Committee on a regular basis. These reports included examples of register entries by Members and Officers.

Relevant reports to the Standards Committee can be seen at

<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>. The meetings of 28 August, 23 October 2008 and 15 January 2009 refer.

7.3 **Overseeing Registration of Officer Interests**

All Council employees have a duty to maintain conduct of the highest standards to help to build and maintain public confidence in the Council's integrity. Every employee has a duty under Section 117 of the Local Government Act 1972 to make a written declaration of any existing or proposed oral or written contract with the Council in which they have a direct or indirect financial interest. Failure to comply is a criminal offence. Regular audits (including Monitoring Officer inspections) of the Officers' register and related procedures have again been undertaken during the year.

Relevant reports are accessible as per paragraph 7.2 of this report.

7.4 **Overseeing Registration by Employees of Gifts and Hospitality**

Each Council Service is responsible for keeping an up to date record of all money, favours, gifts and hospitality offered and/or received. Failure to comply is a breach of conditions of employment and could form the basis of disciplinary proceedings. As with interests, audits and Monitoring Officer inspections of the register and recording arrangements have taken place on a regular basis. The Council's revised contract procedure rules have reiterated legislative sanctions against bribery and corruption.

Relevant reports are accessible as per paragraph 7.2 of this report.

7.5 Confidential Reporting (Whistle Blowing)

The confidential reporting (whistleblowing) policy is available on the intranet as a stand alone document and is contained in the electronic version of the Handbook of Personnel Policies and Procedures. It is referred to in the Members' Handbook and has been placed in the Standards and Probity section of the Council's website. The policy was amended to take account of the new local assessment arrangements. The revised contract procedure rules also referred to the requirement to report any illegality or impropriety under the policy. The report to the Standards Committee on 13 March 2009 refers

(<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>)

7.6 Dispensations

No dispensations were requested during 2008/09 from the Standards Committee under the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002.

7.7 Town/Parish Councils

In addition to providing general and specific advice, guidance and training in connection with the ethical framework, information regarding that framework is passed on a regular basis to all Town and Parish Councils either electronically or by hard copy eg developments relating to the new local assessment arrangements. Working relations with Town and Parish Councils have continued to be developed significantly in this latter respect during 2008/09.

7.8 The Standards Board for England

The Monitoring Officer is responsible for establishing and maintaining an effective working relationship with the Standards Board for England. During 2008/09 this has involved quarterly reporting of statistics regarding the local assessment of complaints about alleged misconduct by Stockton's Members and members of Town and Parish Councils in Stockton's area.

7.9 Details of cases relating to members of the Council and as regards members of Town/Parish Councils in Stockton's area can be seen via the following link

(<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>)

Please refer to the minutes of the meetings of 19 December 2008 and 15 January, 12 February and 13 March 2009.

8. Corporate Compliance with Legislation

The protocol for ensuring consistent responses to new legislation, Government initiatives and consultation exercises has continued to be applied in 2008/09. This has included circulation of information regarding, and responses to proposals to amend the code of conduct for members and to introduce a new model code for employees.

Relevant details were reported to the Standards Committee (<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>). The meetings of 23 October, 20 November and 19 December 2008 refer.

9. Member Training and Development

9.1 The Council has an established learning and development strategy and has achieved the North East Charter accreditation for elected member development.

9.2 Details of the progress to date in this respect and the plans for the future were set out in a report to the Members Advisory Panel on 25 March 2009.

The report can be accessed at

<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>

9.3 Further details relating to member training and skills were submitted to the Standards Committee on 9 April 2009. That report - Standards Board for England - Standards and Ethics - Good Practice - is accessible at

<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>.

10. The Independent Remuneration Panel

10.1 The Panel met during April/May 2008 and its report and recommendations were considered by Cabinet on 19 June 2008. The options put forward by Cabinet were then considered by Council on 9 July. Council agreed the members' allowances schemes for 2008/09, 09/10 and 10/11.

Details of the report to Cabinet and Council's decision can be seen at

<http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab71.pl>.

11. Support to Council, Cabinet, Scrutiny and Committee Meetings

11.1 In 2008/09 the following meetings were supported by Democratic Services:-

Full Council Meetings (including Special Meetings)	-	11 (10)
Cabinet meetings (including Special meetings)	-	15 (13)
Scrutiny/Select Committee Meetings	-	97 (90)
Licensing/Licensing Sub-Committee Meetings	-	31 (16)
Planning Committee Meetings	-	17 (17)
Standards Committee Meetings	-	13 (11)

(2007/08 figures in brackets)

During the year there were 7 (6) Audit Committees; 11 (5) Employee Appeal Panels; 5 (3) Appeals and Complaints Committees, and 6 (4) Members Advisory Panel meetings.

11.2 Local Assessment Meetings

During 2008/09 the following meetings of the Standards Committee's sub-committees took place in relation to Member misconduct allegations:-

Assessment Sub-Committee	6
Review Sub-Committee	3
Consideration Sub-Committee	2
Hearings Sub-Committee	0

11.3 Members' and Mayoral Support

Through Democratic Services, particularly Members' Services and the Civic Unit, the Monitoring Officer is responsible for ensuring that Members receive adequate advice, guidance and support in their role as community representatives and that the Mayor is able to perform a broad Civic function. Particular areas of support for the mayoralty have continued to include:-

- Administering the Mayor's web page
- Maintaining the Civic Diary
- Co-ordinating the Mayor's events and engagements
- Remembrance Sunday; Mayor's Annual Dinner Dance and Annual Meeting/Mayor Making
- The Mayor/Deputy Mayor attending 387 Civic Engagements in 2008/09 (343 in 2007/08).

12. **Preparing and Publishing the Forward Plan**

The co-ordination and maintenance of the Statutory Forward Plan is central to meeting the requirements of good governance as it enhances open and transparent decision making. The current version of the Statutory Forward Plan can be found at <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab61.pl?PVIEW>

13. **Access to Information**

Specific guidance has continued to be provided to relevant Officers regarding the Access to Information provisions and the need for report writers to consider how best to deal with potentially exempt or confidential information when drafting items eg for Cabinet. This is a continuing and continuous learning process.

No issues or concerns were however raised in 2008/09 regarding the approach taken to the treatment of exempt or confidential information in reports.

14. **Processing Call-In Requests**

No requests to call-in Cabinet decisions were made during 2008/09.

15. **Official Signing and Sealing**

The Monitoring Officer is responsible for overseeing the signing and sealing of official documents. During 2008/09 740 (892) documents were sealed. Of that number, 76% (566 (740) documents) were property related.

The remaining 24% of the documents sealed were made up primarily as follows:-

Contracts	-	89 (50)
Traffic/Highway Orders	-	51 (47)
Tree Preservation Orders	-	17 (52)

A further 118 (139) property documents and 45 (75) contracts were signed during the year.

16. 2008/09 Work Programme Schedule

The following work was undertaken in relation to the 2008/09 work programme set out in last year's Monitoring Officer Annual Report:-

16.1 The Constitution

- A further review of the Constitution took place and changes were made eg to reflect the Standards Committee's new powers regarding local assessment of complaints about members' misconduct.
- Resources were reviewed as a result of the experience of operating the local assessment arrangements and were considered to be sufficient, although the resources and procedures for investigations will need to be closely monitored.

16.2 Lawfulness and Maladministration

- The Council's Ombudsman complaints handling procedures were reviewed.

16.3 Good Governance

- The use of E-Genda continued to be developed.
- The new scrutiny arrangements contained in the Local Government and Public Involvement in Health Act were the subject of initial reports to Members. Further reports will be required.
- Input to the work of the Corporate Governance Working Group continued to be provided.

16.4 Ethical Governance

- Reports on the outcomes of the ethical governance audit, IDeA light touch health check action plans and the Monitoring Officer's work programme were submitted to the Standards Committee.
- Guidance, advice and training was provided to Officers, Members and Town/Parish Clerks/Councillors regarding the new local assessment regime.
- Opportunities for promoting and developing the ethical agenda within the broader community were considered and implemented.

16.5 Confidential Reporting

- The policy and procedures were reviewed.

16.6 Compliance with legislation

- Procedures relating to politically restricted posts were reported to and agreed with the Standards Committee.
- A further review of Members' Allowances took place.
- Consideration was given to the implementation of the Local Government and Public Involvement in Health Act provisions eg regarding new executive arrangements.

16.7 Civic Leadership

- Input was provided to Democratic Services' work on democratic renewal and engagement and to the Council's response to the Councillors' Commission reports.
- The arrangements for supporting and delivering the civic function continued to be reviewed.

17. Work Programme Schedule 2009/10

17.1 The Constitution

- Continue to review and revise the Constitution.

17.2 Lawfulness and Maladministration

- Monitor the effectiveness of the Council's complaints handling.

17.3 Good Governance

- Review the scrutiny function and arrangements in light of the EIT programme and the requirements of new legislation.
- Oversee tender receipt and opening under the revised contract procedures rules, particularly as regards the proposed electronic tendering arrangements.
- Review the authority's anti-money laundering arrangements.
- Continue to monitor and update the Council's RIPA procedures.

17.4 Ethical Governance

- Review the resources and procedures relating to the investigation of complaints about member misconduct.
- Provide advice and guidance on the new members and employee's codes of conduct.
- Work in partnership with the other Tees Valley Authorities regarding the implementation of a development programme for Standards Committees.

17.5 Confidential Reporting

- Continue to monitor the policy and procedures.

17.6 Compliance with legislation

- Project manage the introduction of new executive arrangements in accordance with statutory timescales.

18. Conclusion

- 18.1** The Monitoring Officer's role focuses on maintaining high standards, encouraging ethical behaviour, increasing awareness and the implementation of good governance, as well as being involved in taking appropriate action to deal with issues and potential problems as they arise. The effectiveness of this role is dependent on robust systems and procedures being in place to identify issues and potential problems and to ensure that Members, Officers and the public are aware of the appropriate channels to raise concerns.

- 18.2 Most importantly, in order to fulfil this role in an efficient and effective way, the Monitoring Officer requires the support of other Officers and Services, particularly the Deputy Monitoring Officer, Officers in Legal Services; the Head of Democratic Services and Democratic Services Officers.
- 18.3 Views on any aspect of this report or on the continued development of the Monitoring Officer role would be welcomed and should be directed to the Monitoring Officer, c/o Margaret Fawkes, PA to the Director of Law and Democracy, PO Box 11, Municipal Buildings, Church Road, Stockton-on-Tees TS18 1LD; telephone 01642 527060; email address margaret.fawkes@stockton.gov.uk .

19. Other Languages or forms of Communication

For further information about the availability of this report in other formats and languages, please contact Margaret Fawkes on 01642 527060 or via email to margaret.fawkes@stockton.gov.uk.

David Bond
Monitoring Officer
May 2009