

**PEOPLE SELECT COMMITTEE OVERVIEW MEETING 2016  
7<sup>TH</sup> NOVEMBER 2016**

**REPORT FROM THE MONITORING OFFICER**

1. Background

- 1.1 The role of the Monitoring Officer was introduced by the Local Government and Housing Act 1989 (“the 1989 Act”) and has been developed through subsequent legislation in the form of the Local Government Act 2000; the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011.
- 1.2 Under the 1989 Act, all principal local authorities are required to appoint a Monitoring Officer and to make sure that the role is adequately resourced.
- 1.3 The Monitoring Officer has broad responsibilities for ensuring the lawfulness and fairness of Council decision-making, ensuring compliance with codes and protocols, promoting good governance and high ethical standards, and supporting the Authority’s Standards Panel in connection with the determination of complaints about Member conduct under the Council’s standards arrangements.
- 1.4 Further detail relating to Monitoring Officer functions can be found at **Appendix 1** to this report.

2. What has been achieved?

- 2.1 Continuing to work with relevant Officers regarding succession planning for the Monitoring Officer responsibilities. There are two Deputy Monitoring Officers currently in post and the Legal Services team provides general support to the Monitoring Officer and deputies regarding the discharge of their statutory functions and duties. Other Officers also now fulfil specific responsibilities such as the link officer role in relation to Local Government Ombudsman complaints.
- 2.2 Providing advice, guidance and support for the Authority’s constitutional and political governance, including assisting with the Induction Programme for Members following the May 2015 elections.
- 2.3 Fulfilling the legal adviser role to the Cleveland Police and Crime Panel, including responsibility for receiving and administering complaints about the Police and Crime Commissioner and managing the appointment process for non-political Independent Members of the panel.
- 2.4 Monitoring the handling of Local Government Ombudsman complaints, in order to ensure that they were considered and responded to in an efficient, effective and timely way.
- 2.5 Administering and providing advice and support in relation to the external inspection of the Council’s Regulation of Investigatory Powers Act (“RIPA”) functions and activities.
- 2.6 Reporting the successful outcome of the RIPA inspection and the action taken to comply with the recommendations arising from the Inspector’s report.

- 2.7 Fulfilling the Senior Responsible Officer role in relation to the Authority's RIPA duties and responsibilities.
- 2.8 Overseeing and assisting the Copyright Licensing Agency's audit of the Council's adherence to the requirements of its Public Administration Licence.
- 2.9 Providing advice and support regarding the six shareholding local authorities' interests in Durham Tees Valley Airport.
- 2.10 Assisting with the legal and administrative arrangements for establishing the Tees Valley Combined Authority and the planning for its inaugural meeting.
- 2.11 Managing Member conduct issues; dealing with Code of Conduct complaints and liaising regularly with the Council's three Independent Persons.
- 2.12 Providing regular advice, guidance and support regarding Members personal interests and in connection with potential conflicts of interest arising from Council, Cabinet and Committee meeting business.
- 2.13 Overseeing the maintenance of the Council's and Town and Parish Councils' registers of Members interests.
- 2.14 Maintaining, reviewing and updating the Council's Constitution, particularly the delegation of and responsibility for functions.
- 2.15 Ad hoc advice and guidance to Members regarding constitutional, governance and probity issues.
- 2.16 Support for Town and Parish Council Clerks.
3. Challenges
  - 3.1 The developing Monitoring Officer duties and responsibilities in relation to the Tees Valley Combined Authority.
  - 3.2 Dealing with complaints about Member conduct, particularly in connection with Town and Parish Councillors.
  - 3.3 Issues affecting Durham Tees Valley Airport and the shareholding local authorities' interests.
4. Emerging Issues
  - 4.1 The establishment of the Tees Valley Mayoral Combined Authority and the process for devolving the Mayor's powers and functions and for clarifying how they will work within the Combined Authority.
  - 4.2 The election of a Mayor for the Tees Valley Combined Authority Area.
  - 4.3 Ensuring the completion of the handover of Monitoring Officer duties and responsibilities in 2017/18 is as smooth as possible.
5. Possible Areas for In Depth Review

None are suggested at this point in time.

**Summary of Monitoring Officer Functions**

	<b>Description</b>	<b>Source</b>
1.	Report on contraventions or likely contraventions of any enactment or rule of law.	Sections 5 and 5A, Local Government & Housing Act 1989
2(a).	Report on any maladministration or injustice where the Ombudsman has carried out an investigation and issued a report.	Sections 5 & 5A, Local Government and Housing Act 1989
2(b).	Link Officer regarding complaints submitted to the Local Government Ombudsman	The Constitution, Article 12
3.	Appoint a Deputy	Section 5, Local Government & Housing Act 1989
4.	Report on sufficiency of resources	Section 5(7), 5A(10), Local Government & Housing Act 1989
5(a).	Establish and maintain the Register of Members' interests (and the register of gifts and hospitality)	Section 29(1) Localism Act 2011
5(b).	To ensure that relevant Town/Parish Council registers of Members' interests are available for inspection, placed on the Council's website and made accessible via the Town/Parish Councils' websites.	Section 29(6), Localism Act 2011
6.	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997	Local Authorities (Contracts) Regulations 1997
7.	Maintain, monitor, review and update the Constitution.	The Constitution, Article 15
8(a).	Support the Standards Panel. Promote and maintain high standards of conduct.	Localism Act 2011 and the Council's standards arrangements
8(b)	To liaise and consult with the Council's Independent Person	Localism Act 2011 and the Council's standards arrangements

9(a).	Consulting with, supporting and advising the Head of Paid Service and Section 151 Chief Finance Officer on issues of lawfulness and probity.	The Constitution, Article 12
9(b).	Providing support, advice and guidance in relation to the Council's corporate governance.	The Constitution, Article 12
9(c).	Lead Officer for the purposes of the Council's statutory forward plan and forward work programme.	The Constitution, Article 12
10.	Advising the Council and Cabinet and Committees (including the Health and Wellbeing Board and the Cleveland Police and Crime Panel) on issues of lawfulness and probity.	The Constitution, Article 12
11.	Conduct investigations into misconduct	Localism Act 2011 and the Council's standards arrangements
12.	Proper Officer for Access to Information	The Constitution, Article 12
13.	Advise on whether executive decisions are within the Budget and Policy Framework.	The Constitution, Article 12
14.	Provide advice on vices issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members.	The Constitution, Article 12
15.	Issuing Dispensations to Members regarding disclosable pecuniary interests in consultation with the Council's Independent Person and subject to any referral to the Standards Panel.	Localism Act 2011 and the Council's standards arrangements.
16(a).	Primary Qualified Person for considering whether certain information is exempt from disclosure under the Freedom of Information Act.	Section 36, Freedom of Information Act 2000
16(b).	Principal Contact Officer for the Information Commissioner's Office regarding FOI and Data Protection matters.	The Constitution, Part 3
17.	To determine whether information relating to a (Borough Council and Town/Parish Councils) Member's personal interests is sensitive	The relevant Council's Code of Conduct for Members and the Localism Act 2011

information under the relevant Council's new code of conduct and the Localism Act.

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| 18.    | To advise the Chief Executive, as required, in connection with the grant and supervision of exemptions from political restriction under the Local Government and Housing Act 1989 as amended by the Local Government and Public Involvement in Health Act and the Localism Act. | The Local Government and Public Involvement in Health Act 2007, as amended by the Localism Act 2011 |
| 19.    | To advise the Standards Panel in relation to member misconduct allegations.   | The Localism Act 2011 and the Council's new standards arrangements                                  |
| 20.    | To advise the Standards Panel in relation to any referred applications for dispensations.   | The Council's standards arrangements  |
| 21.    | Senior Responsible Officer regarding the Council's RIPA activities.   | The Constitution Part 3 and the RIPA Corporate Policy and Procedures Document                       |
| 22(a). | To keep and maintain a register of tenders opened.  | The Constitution Part 4 – Rules of Procedure  |
| 22(b)  | To monitor and review the procedure for the receipt, opening and determination of tenders received.   | The Constitution Part 4 – Rules of Procedure  |
| 22(c)  | To advise on the lawfulness of any decisions taken in respect of the Council's procurement activities and in particular to consider applications for exception to the contract procedure rules.   | The Constitution Part 4 – Rules of Procedure  |
| 23     | Lead legal adviser for and on behalf of the shareholding local authorities regarding DTVA matters.  | The Constitution Part 3 and by agreement with the shareholding local authorities.                   |