

.Monitoring Officer Annual Report 2022/2023

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Monitoring Officer Annual Report 2022/2023

1. Introduction

1.1 The Monitoring Officer's Annual Report summarises the more important matters arising from the Monitoring Officer's work for the Council from 1 April 2022 to 31 March 2023 and comments on other current issues. This report is prepared by the Monitoring Officer appointed by Full Council on 24 February 2021.

1.2 Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the fundamental principles of openness, integrity and accountability together with the overarching concept of leadership. In this respect, North Norfolk District Council recognises the need for sound corporate governance arrangements and has put in place policies, systems and procedures designed to achieve this.

1.3 The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989 and has a number of statutory functions in addition to those conferred under the Local Government Act 2000 and subsequent regulations governing local investigations into Member conduct. These are outlined in the next section of the report.

2. The Monitoring Officer's Work April 2022 – March 2023

Duties	Work undertaken
<p>(a) Maintaining a lawful position for the Council and reporting on contraventions or likely contraventions of any enactment or rule of law including fraud.</p>	<p>The Monitoring Officer, during the period 1 April 2022 to 31 March 2023, is a member of the Management Team. Management Team and the Corporate Leadership Team met separately and together. The Monitoring Officer has had and continues to have regular 'Statutory Officer meetings' with the Council's Chief Executive and the Chief Finance Officer.</p> <p>The Council's in house legal team, eastlaw, provides advice and assistance to officers throughout the Council and reports to the Monitoring Officer on any areas of concern in relation to lawfulness and compliance with the Council's protocols and processes. The Monitoring Officer has appointed a deputy.</p> <p>The Monitoring Officer and her staff have attended meetings and provided advice to officers and Members at an early stage, including seeing relevant reports to committee. The Monitoring Officer also requires appropriate recording of delegated authority to evidence compliance with the Constitution.</p> <p>In the year 2022/2023, North Norfolk District Council received and processed 654 requests for information under the Freedom of Information Act 2000 and Environmental Information Regulations 2004 access regimes. See Appendix A. This is an increase of around 8% from the previous year. The Freedom of Information Act 2000 details the Monitoring Officer as a 'qualified person' to give a reasonable opinion under section 36 of the Act. That section provides an exemption from providing information where there is a likelihood that doing so would be likely to prejudice the effective conduct of public affairs. No such opinion was sought or provided during this period.</p> <p>Of the 654 requests processed, eight requests were received for an internal review of either the handling of the request or refusal to disclose particular information. There were also two requests where the applicant complained to the Information Commissioner's Office. Under the UK GDPR and</p>

Data Protection Act 2018, individuals have various rights in respect of their data, one of which is to make a Subject Access Request [“SAR”]. In 2022/23, North Norfolk District Council received and processed 29 SARs.

The Council has a well-established process for dealing with any reported or alleged data breaches. Whilst there were some minor breaches during this period, there were no serious or significant breaches requiring formal reporting to the Information Commissioner’s Office. Recent Information Governance training has been provided to Members, and there are update training sessions scheduled for officers in Autumn 2023.

Under the Regulation of Investigatory Powers Act 2000 (“RIPA”), the Council has powers to undertake directed surveillance and use Covert Human Intelligence Sources in line with the requirements of that legislation. In the year 2022/23, the Council had one Covert Human Intelligence Source application granted at the Magistrates’ Court for a set and limited period. The Monitoring Officer is the Council’s ‘gatekeeper’ under the Council’s policy relating to these powers and provides advice to officers as requested. Annual refresher training for officers took place in September 2022 and the Council’s RIPA policy was updated in October 2022. In recognition of the increased use and significance of social media, the Internet and Social Media Research and Investigation Policy and Procedure was introduced in October 2022 and is being implemented throughout the Authority.

The Monitoring Officer has a key role as a ‘responsible officer’ to whom disclosures may be made, concerning the public interest, under the Whistleblowing Policy, relating to any concerns as to impropriety or unlawful activity within the Council. There were no disclosures made to the Monitoring Officer during this year.

There has been no occasion where the Monitoring Officer had reason to believe that there was a likelihood that there had been or was likely to be a decision that was unlawful or would give rise to maladministration. Accordingly no reports under section 5(2) of the Local Government and Housing Act 1989 have been issued.

	<p>The Monitoring Officer has reviewed the Council’s anti-fraud and corruption policy and, in particular has looked at the nature and extent of any fraud or attempted fraud against the Council within the year 2022/2023 resulting in a report to the GRAC committee of June 2023 (further information is detailed in paragraph (k) of this report).</p>
<p>(b) Report any findings of maladministration causing injustice where the Ombudsman has carried out an investigation.</p>	<p>The Monitoring Officer reviews any complaints where the Ombudsman has upheld the complaint. Appendix B shows complaints made to the Ombudsman during this period and the outcome. The Ombudsman upheld two of the complaints made in the financial year 2022/2023. In addition to the requirement of an apology, the financial recompense to both complainants was under £400 in total.</p>
<p>(c) Establish and maintain the Register of Member’s interests and gifts and hospitality.</p>	<p>This Council holds the Register of Interests for the District Council and also for Town and Parish Councils within the district. The Council is able to make access available to the Register at the Council’s offices. The Register of Members’ Interests is published on the Council’s website along with any dispensations granted. Applications for dispensations are considered and determined by the Standards Committee. The Monitoring Officer has prepared a procedure guide and application process which has been published on the Council’s “ModernGov” site.</p> <p>Members are required to provide a Register of Interests and keep such up to date. This is the responsibility of each individual Member, but Members are reminded about this requirement regularly, including in April 2022 and January 2023. In advance of the May elections 2023 an electronic Register of Interests was developed enabling Members of the District, Parish and Town Council’s to upload their interests after the elections, and update as required. This has been successfully used by District Councillors, with all Members of this Council uploading their Register of Interests within 28 days of taking office in May 2023. Additional support in using this system has been given to Town and Parish Councils through the Town and Parish Council Forum meetings and emails to the clerks of the various councils. All Registers received have been uploaded.</p> <p>The Code of Conduct and guidance sets out the requirements for Members as to gifts and hospitality. There is one entry relating to gifts/hospitality for this period, listed at Appendix C.</p>

<p>(d) Maintain Register of Employees gifts and hospitality.</p>	<p>The Register is updated regularly. The Constitution contains information with regard to accepting, declining and recording gifts and hospitality. The requirement to register gifts and hospitality is regularly shared with officers, including the uploading of a guidance note on to the intranet prior to Christmas 2022, publishing the requirement and process. This financial year shows 18 entries. A copy appears at Appendix D.</p>
<p>(e) Investigate misconduct in respect of District, Parish and Town Councillors under the Code of Conduct.</p>	<p>The Code of Conduct is designed to protect the democratic role, promote good conduct and safeguard the public’s trust in local government and is based upon the Nolan Principles. The Council’s Protocol on Member/Officer Relations details that the Protocol is relevant in judging compliance with the Code of Conduct.</p> <p>Between April 2022 and March 2023, a total of 20 Code of Conduct complaints were received. Seventeen complaints related to parish/town councils and three related to the District Council. This compares to 23 complaints from the previous year relating to district, parish and town councils. On receipt of a complaint about Member Conduct, the Monitoring Officer conducts an initial assessment to determine if the matter warrants any further action, such as a formal investigation. The Monitoring Officer liaises with one of the Council’s Independent Persons in this process.</p> <p>The most common reason for complaints continues to be alleged disrespectful behaviour. The majority of complaints were assessed as requiring no further action. Sometimes this has been accompanied by some informal recommendations or guidance to improve governance. Two town/parish council matters were referred for investigation during the year 2022/2023. Two matters requiring referral to the Standards Committee for a hearing were postponed to shortly after the year end 2022/23 so as to avoid the pre-election period.</p> <p>The Localism Act 2011 places significant importance on registering interests, especially disclosable pecuniary interests and Members are regularly reminded of the need to keep their register of interests up to date. An electronic process to register interests was prepared for use post elections 2023. Registers of Interest are published on the Council’s website along with any dispensation granted. Each committee meeting agenda contains an agenda item for declaration of interests where there is included a flowchart and guidance note to assist Members by providing information</p>

	as to when they may need to declare an interest.
(f) Investigate breaches of the Council's own protocols.	There have been no alleged breaches of the Council's own protocols in the year 2022/2023.
(g) Provide advice to Town and Parish Councils on the interpretation of the Code of Conduct.	<p>The Monitoring Officer, and her staff, have provided advice to Parish Councils, particularly via their clerks, on the Standards and Code of Conduct Arrangements during 2022/23 via telephone and email.</p> <p>The Monitoring Officer (and her staff) have provided advice and assistance to a number of parishes through interventions to raise standards and deal with complaints. On occasion, informal advice and recommendations have been given to parish and town councils following Code of Conduct complaints.</p> <p>The Town and Parish Forum meets quarterly and consists of key District Council officers, Members, in addition to clerks, parish/town Members and a representative from the Norfolk Association of Local Councils. This provides an opportunity to provide general information relating to the Code of Conduct including assistance relating to the electronic Register of Interests.</p>
(h) Promote and support high standards of conduct through support to the Standards Committee.	<p>The Standards Committee sits regularly. In the last year, the Council appointed two Independent Persons to give an external and independent view where complaints are made against Members under the Member Code of Conduct. Whereas previously there was just the one Independent Person, having two provides greater resilience and availability to the Monitoring Officer and any Member subject of a complaint. The Independent Persons have undertaken internal training provided by the Monitoring Officer, as well as external training. They provide valued input into the Code of Conduct procedures.</p> <p>The Monitoring Officer has recently prepared a full procedure note and provided training in Standards Hearings for the Committee.</p>
(i) Compensation for maladministration.	There have been no cases of compensation

<p>(j) Maintenance and review of the Constitution.</p>	<p>The Constitution has been revised and updated during the year with the input of the Constitution Working Party. The Constitution has had a number of minor updates, including to the contract procedure rules thresholds. During the year 2022-2023 a complete review of the Constitution commenced, the last such review having been undertaken around a decade ago. The final amendments are due for completion in the year 2023/24.</p>
<p>(k) Responsibility for complaints made under the Council's Whistleblowing and Anti-Fraud policies.</p>	<p>The Council's Whistleblowing Policy provides a confidential procedure for employees to report concerns which impact upon the public interest. The Monitoring Officer has not received any whistleblowing complaint in this period.</p> <p>The Council's Counter Fraud Corruption and Bribery Strategy aims to increase staff and Member awareness and to minimise likelihood of losses to the public purse through fraud and corruption. As with the Whistleblowing Policy, it recognises that staff and Members are important in tackling any wrongdoing and respects confidentiality where concerns are raised. Further internal controls include a requirement that the Council, when dealing with outside organisations, manages its transactions in accordance with the Council's Contract Procedure Rules set out in the Constitution. Where there are exemptions to the usual procurement procedures there is a requirement to keep a proper record of this.</p> <p>Employees are made aware of the anti-fraud policies and their ability to report through the Council's intranet and team briefings.</p> <p>In the year 2022/23, a Fraud Risk Assessment was undertaken, which highlighted areas of risk, controls required, and mitigation steps in the Council's fight against fraud. This assessment was subsequently considered and an update prepared for GRAC in June 2023 detailing fraudulent/potential fraudulent activity against the Council, or relevant incidents, occurring during that period. Information provided looked at the number and nature of those incidents, how such have been addressed and what additional controls or mitigation have been applied. It identified a small number of frauds/potential frauds of low level seriousness. There were no reports of significant fraud for the year 2022/2023. A Fraud Action Plan has been prepared by the Monitoring Officer and put in place. It is based on the "Fighting Fraud and Corruption Locally Strategy" checklist (also</p>

	<p>completed) and training in counter-fraud and anti –corruption is being provided to officers and is also available to all Members.</p>
<p>(l) Breaches of the Employee Code of Conduct.</p>	<p>Employees are reminded through the Council’s internal communications regarding business practice and ethical behaviour. The Constitution sets out the Employee Code of Conduct and provides links to associated policies and procedures, setting out the standards of behaviour expected by the Council. These policies and disciplinary procedures are managed by the Council’s HR team.</p> <p>In the year 2022/2023, the Employment and Appeals committee has not met to consider any disciplinary matter.</p>
<p>(m) Advice on vires issues, maladministration, financial impropriety, probity and policy framework.</p>	<p>The Monitoring Officer has been consulted on matters, which have potentially significant legal implications.</p> <p>The Monitoring Officer met regularly with the Chief Financial Officer and the Chief Executive.</p> <p>The financial statements are subject to a robust governance process through the Committee cycle.</p> <p>The Monitoring Officer and her staff have attended Council and other Committees as necessary.</p> <p>Officers consult the Monitoring Officer regularly on vires and probity issues.</p> <p>The Monitoring Officer works closely with the Chief Executive, the Chief Financial Officer, the Management Team and the Corporate Leadership Team to ensure probity in the organisation.</p> <p>The Monitoring Officer regularly advises on the legality and/or appropriateness of administrative procedures, in conjunction with the Democratic Services Team.</p>
<p>(n) Exemptions to contract standing orders</p>	<p>12 exemptions (Appendix E) have been recorded and allowed this year, mainly in relation to specialist services where there is only one supplier/no acceptable alternative: an identified and</p>

	permitted exemption under the Constitution. Changes to the thresholds under the Contract Procedure Rules, including where exemptions are applied for, have been updated and communicated to officers
(o) actual or potential litigation or claims that would have a significant effect on the entity or a material impact on the financial statements	None identified for the year 2022/2023

3. Key Messages

3.1 The key messages to note from the year are:

- (i) The Constitution has been and will continue to be maintained and updated and is at the final stages of a substantial review.
- (ii) Provision of an online updating facility for registration of Member interests has been implemented for use by Members of our District, Town and Parish Councils.
- (iii) A permanent Chief Finance Officer (S.151 officer) joined the Council in 2022
- (iv) Two Independent Persons have been appointed by the Council with whom the Monitoring Officer, and Members subject to complaint, may consult, and who provide a view to the Standards Committee before a decision is reached in Code of Conduct matters.
- (v) A counter-fraud and anti-corruption checklist has been completed and an action plan subsequently put in place to address risk.

4. Looking Forward

4.1 The key issues for 2023/2024 are as follows;

- Any actions arising from internal and external audits will need review and implementation
- Local elections (May 2023) occurred at the end of the 2022/2023 year. Training for new and returning Members following those elections was arranged and continues.
- The completion of the Constitution review which is currently in progress.
- The advertisement and recruitment process of an Independent Person to join the Governance Risk and Audit Committee in line with CIPFA guidance
- Additional finance training for officers and Members
- A Peer review is to be undertaken in September 2023

4.2 Code of Conduct

4.2.2 The Member Code of Conduct and the Protocol on Member/ Officer Relations are accessible on the Council's website. Members will continue to receive regular reminders to keep their register of interests up to date and are now able to upload their interests electronically. This procedure is being promoted amongst the Town and Parish Councils.

4.3 Corporate Governance Framework

4.3.1 The Monitoring Officer will continue to provide an assurance in respect of the Code and the Annual Governance Statement by way of this Annual Report.

4.4 Constitution and Regulations

4.4.1 The Constitution will continue to be kept under review by the Monitoring Officer working closely with the Democratic Services Team and the Constitution Working Party. The Constitution has had interim updates and it is now at the final stages of a substantial review.

4.4.2 It will be appropriate to continue to remind Members and staff of the importance of compliance with the Council's regulations, as set out in the Constitution and other policy framework documents, and the Monitoring Officer and other staff will provide advice accordingly.

5. Overall opinion on the adequacy and effectiveness of the Governance framework

The Monitoring Officer confirms that she is not aware of:

- Any breaches of, or deficiencies in, internal control during 2022/2023 in respect of fraud or compliance with relevant legal provisions that could have a significant effect on the entity or a material impact on the financial statements;
- Any actual, suspected or alleged frauds or breaches of legislative requirements during 2022/2023 of significance (save those of a minor nature as detailed in this report);
- Any excessive or undue pressure to meet financial or operating targets that may unduly influence the actions of either those charged with governance or Management;
- Any actual or potential litigation or claims that would have a significant effect on the entity or a material impact on the financial statements;
- Any circumstances that would call into question the preparation of the financial statements on an ongoing basis.

Subject to the information and areas outlined above, the systems of internal control administered by the Monitoring Officer including the Code of Conduct and the Council's Constitution, appear adequate during the year between April 2022 and March 2023.

Cara Jordan
Monitoring Officer
30 August 2023