

Part 5C

MONITORING OFFICER PROTOCOL

1. This protocol was adopted by Horsham District Council on 17th October 2001 and has been updated to take account of legislative changes. Fresh approval was given by the Council on 5th December 2007.
2. The Monitoring Officer undertakes to discharge his or her responsibilities outlined in this protocol with determination and a manner which will enhance the reputation of the Council. In general terms his or her ability to discharge these duties depends on excellent working relations with colleagues and members but also the flow of information and access to debate particularly at early stages.
3. The following arrangements and understandings between the Monitoring Officer and colleagues and members are designed to help ensure the effective discharge of the Monitoring Officer's functions:
 - (a) If not a member of the Chief Officers' Management Team the Monitoring Officer will have advance notice of those meetings and agenda and reports and the right to attend and speak.
 - (b) Advance notice of meetings whether formal or informal between Chief Officers and members of the Executive or Committee Chairmen will be given to the Monitoring Officer where any procedural, vires or other constitutional issues are likely to arise.
 - (c) Chief Officers will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
 - (d) The Monitoring Officer or his or her staff will have copies of all reports to members.
 - (e) The Monitoring Officer is expected to develop good liaison and working relations with the Standards Board, the District Auditor and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
 - (f) The Monitoring Officer will have a special relationship with the Chairman of the Council, Chairmen of the Standards and Scrutiny Committees and will ensure the Head of Paid Service and Chief Finance Officer have up-to-date information regarding emerging issues.



- (g) The Monitoring Officer will be expected to make enquiries into allegations of misconduct in the absence of a written complaint being received by the Standards Board and if appropriate will make a written report to the Standards Committee unless the Monitoring Officer and Chairman of Standards Committee agree a report is not warranted.
- (h) The Head of Paid Service, Chief Finance Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other matters of concern regarding probity.
- (i) In carrying out any investigation (whether under Regulations or otherwise) the Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of his or her functions.
- (j) The Monitoring Officer will have control of a budget sufficient to enable him to seek Counsel's opinion on any matter concerning his or her functions.
- (k) The Monitoring Officer will be responsible for preparing a training programme for members on the ethical framework subject to the approval of the Standards Committee.
- (l) The Monitoring Officer will 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.
- (m) In consultation with the Chairman of the Council or the Leader and Standards Board the Monitoring Officer may defer the making of a formal report under Sections 5 or 5A (as the case may be) of the Local Government and Housing Act 1989 where another investigative body is involved.
- (n) The Monitoring Officer will make a report to the Council from time to time as necessary on the staff, accommodation and resources they require to discharge his or her functions.
- (o) The Monitoring Officer will appoint a deputy and keep him or her briefed on emerging issues.
- (p) The Monitoring Officer may delegate his or her functions in relation to matters referred to him or her under the Local Government Act 2000 Sections 57A, 60(2) or (3), 64(2) or (4).



- (q) The Monitoring Officer will make arrangements to ensure good communication between his or her office and Clerks to Parish Councils.
- (r) The Monitoring Officer will upon receiving a report referred by an ethical standards officer arrange for the standards committee to consider it within and in accordance with the procedure laid down in regulation.
- (s) The Monitoring Officer will upon receiving a request to do so from an ethical standards officer undertake or arrange for the undertaking of a local investigation into an allegation of a breach of the Members' Code of Conduct and to report appropriately.

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description	Source
1. Report on contraventions or likely contraventions of any enactment or rule of law.	Local Government and Housing Act 1989 Section 5, 5A
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation	Local Government and Housing Act 1989 Section 5, 5A
3. Appointment of Deputy and power to delegate.	Local Government and Housing Act 1989 Section 5, Local Government Act 2000 Section 82A
4. Report on resources	Code of Members' Conduct Code of Employees' Conduct
5. Receive copies of whistleblowing allegations or misconduct	Code of Employees' Conduct
6. Investigate misconduct in compliance with Regulations and directions of Ethical Standards Officers.	The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, SI 2003/1483 as amended by SI 2004/2617 References made under Local Government Act 2000 Section 57A. Directions when made in individual cases. Local Government Act 2000 Section 66(1), 66(6)
7. Establish and maintain registers of members interests and gifts and hospitality.	Local Government Act 2000 Section 81 and Code of Members' Conduct.



8. Advice to members on interpretation of Code.	Code of Members' Conduct.
9. Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance paragraph 8.20.
10. Liaison with Standards Board and Ethical Standards Officers	New ethical framework, practical implications
11. New ethical framework functions in relation to Parish Councils	Local Government Act 2000 Section 83(12)
12. Compensation for maladministration	Local Government Act 2000 Section 92
13. Make reports to Standards Committee and refer report of Ethical Standards Officer to Standards Committee for consideration.	The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, SI 2003/1483 as amended by SI 2004/2617
14. Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members.	Department for Communities and Local Government, Local Government Ombudsman, Standards Board for England guidance.

