

Meeting:	Audit and governance committee
Meeting date:	28 November 2016
Title of report:	Annual report of the monitoring officer
Report by:	Monitoring officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To inform the committee of performance in the areas within the remit of the monitoring officer for the municipal year 2015/16.

Recommendation

THAT:

- (a) **the annual report of the monitoring officer be reviewed and any areas for further work be identified for inclusion in the work programme.**

Alternative options

- 1 There are no alternative options as the report provides a factual summary of performance.

Reasons for recommendations

- 2 To enable the committee to be assured that high standards of conduct continue to be promoted and maintained and the council is adhering to the principles of openness and transparency.

Key considerations

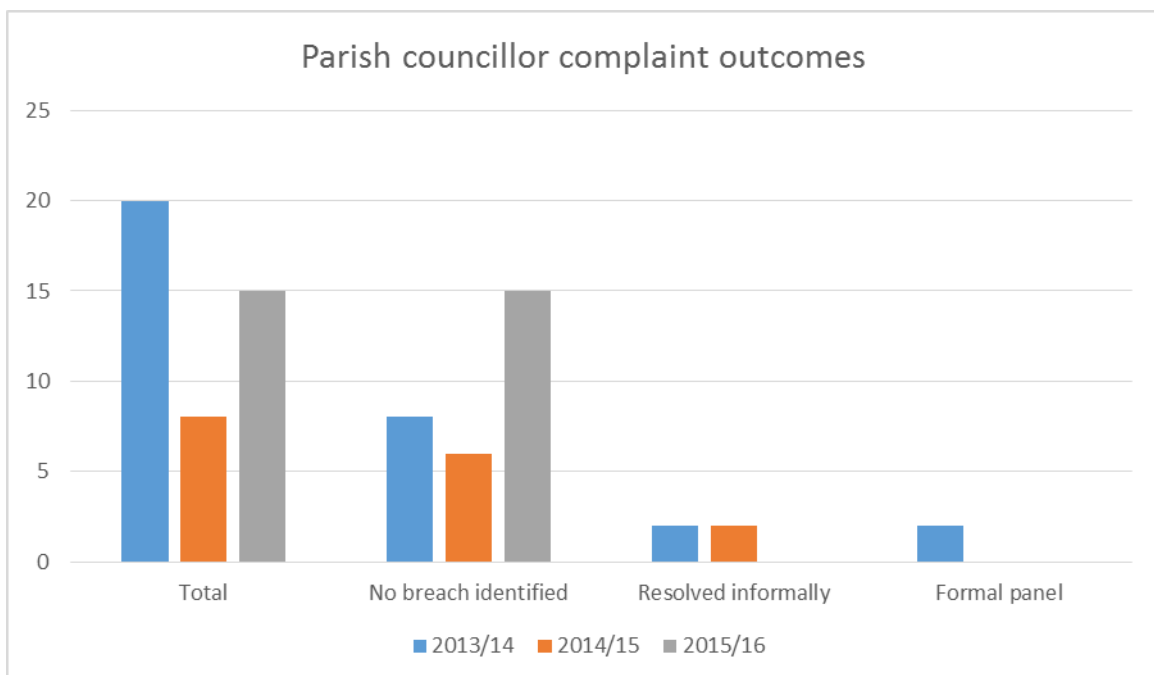
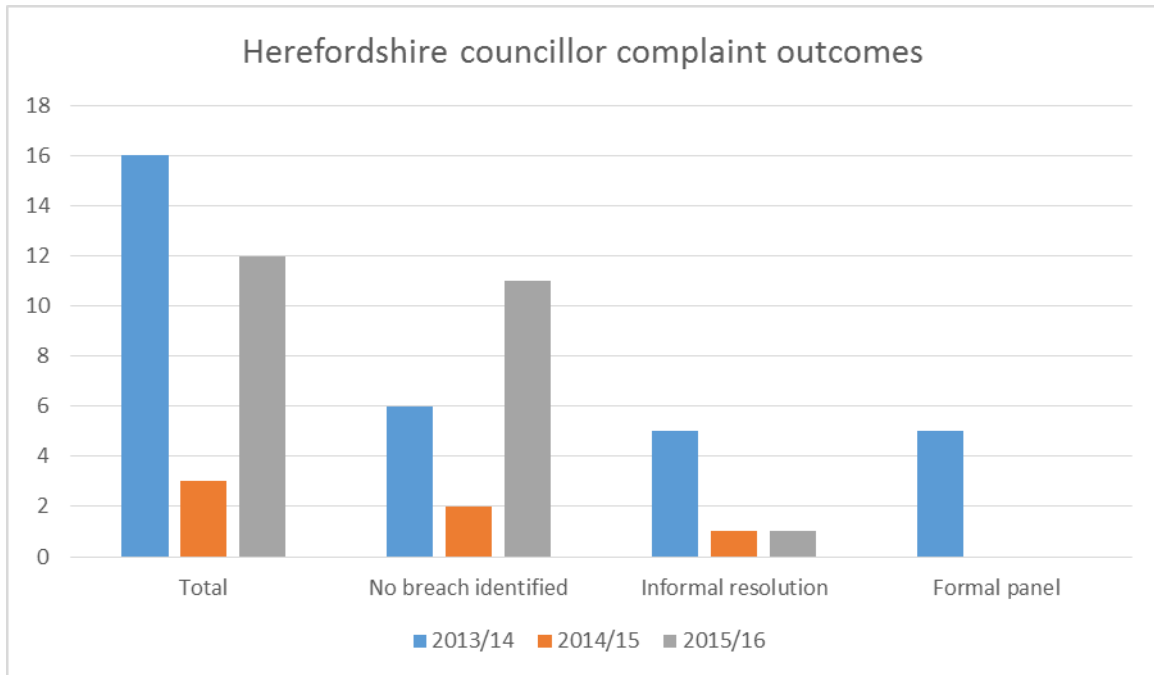
- 3 The role of the monitoring officer is a statutory office whose duties are set out in the Local Government and Housing Act 1989 and the Local Government Act 2000.
- 4 The main responsibilities of the monitoring officer are to ensure that the council, its elected councillors and its staff act with probity and that all the council's activities are in accordance with the law and the council's constitution. The monitoring officer has responsibility for ensuring that the council avoids findings of maladministration and that it responds appropriately to the local government ombudsman in that regard.
- 5 The monitoring officer is also responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct, and for administering the local standards framework. The monitoring officer's responsibilities dovetail with those of the other statutory officers: the head of paid service (chief executive) and the section 151 officer (director of resources).

Code of Conduct

- 6 In accordance with the provisions of the Localism Act 2011 the council has adopted a code of conduct, and this has been made available to all parish councils in the county to inform the adoption of their own code. The act also requires that the council appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct, whether by a Herefordshire councillor or a parish councillor in Herefordshire, which it has decided to investigate. Their view may also be sought in dealing with allegations which have not been investigated and they may be asked to provide support to subject members who are the subject of an allegation. At the beginning of the year the council had only one independent person, John Sharman; following a recruitment process an additional independent person, Richard Stow, was appointed by full Council in May 2016. The monitoring officer is grateful for the time and commitment these independent panel members give.
- 7 Following the monitoring officer's annual report for 2014/15 presented to the audit and governance committee on the 24 November 2015 it was resolved that a review of the standards procedure to investigate code of conduct complaints be carried out. This review has been completed and was presented to the audit and governance committee on the 9 May 2016 where it was resolved that subject to the views of parish councils the revised procedure as amended for standards matters be adopted. The revised procedure is currently out for consultation with parish councils with a deadline for responses being the 7 October.
- 8 The council maintains a register of interests for members of Herefordshire Council and parish councillors; these declarations are published on the 'your councillors' pages of the council's website. An annual reminder is sent to members and parish councillors to ensure that declarations are kept up to date. The monitoring officer provides periodic briefing sessions for Herefordshire councillors and parish councillors on the code of conduct, including induction training for members following elections. Under the powers delegated to the monitoring officer by Council in September 2012 the monitoring officer granted one general dispensation to enable members to vote on appointments at the annual meeting of Council in May 2015.

Standards complaints

- 9 Between May 2015 and April 2016 a total of 36 complaints alleging a breach of the code of conduct were received. This figure is a significant increase on that for 2014/15. On analysis of the complaints received there is evidence that there has been a rise in the number of complaints alleging lack of respect when councillors are using social media, further training in this area might be of benefit to both local and parish councillors and will be covered in the monitoring officer's annual training. It will be noted that the tables below detail the outcome of 27 of the 36 complaints received. The remaining nine complaints are with an external investigator and no decision on these complaints has been made to date.



Gifts and Hospitality

- 10 Members are required to register offers (whether accepted or declined) of gifts and hospitality with an estimated value in excess of £25.00; any declarations received are published on the 'your councillors' pages of the council website. It is suggested that members are reminded of this requirement in the annual training.

Council complaints

- 11 The council's information access team and information governance team manages:
- All formal complaints (note that with effect from 1 June 2014 the statutory children's social care (CSC) complaints process has been administered and managed by the quality assurance team in the children's wellbeing directorate)
 - Freedom of information (FOI) requests
 - Subject access requests (SAR)
 - Environmental regulation requests (EIR)
 - Potential data breaches
 - Police requests including proof of life requests
 - Requests from other authorities to share information
 - Community trigger alerts (since October 2014)
- 12 Complaints performance and trends are regularly monitored and reviewed by the council's management board. The table below provides a high level summary of the number of issues the team dealt with during the year and the previous years to provide comparison.

	Complaint	FOI	EIR	SAR	Data incident	Police request	LA request	Community trigger
2013/14	880 (total)	1280	153	56	64	34	8	n/a
2014/15	78 (CSC) 867 (other) 945 (total)	1165	76	76	63	101	72	0
2015/16	62 (CSC) 667 (other) 729 (total)	1121	85	75	91	84	83	0

Data breaches

- 13 Data incidents are incidents (potential breaches) reported internally to be investigated – they are not full-blown data breaches. However, all incidents are investigated so that we can improve practice and learn from any mistakes. Mandatory training is provided for all employees and for elected members on information governance issues, and the rate of reporting indicates a high level of awareness among staff of the processes to be followed if a potential data breach has occurred. During 2015/16 no data breaches were reported to the information commissioner's office (ICO).

Information requests

- 14 A wide range of information requests are received, some reflecting local issues and others on themes of more national areas of interest. Over the course of the past two years there has been a significant rise in the response time within deadline for such requests by the council. During 2015/16 three FOI/EIR referrals were made to the ICO where the requester was unhappy with a refusal by the council to release information. The ICO have upheld the council's decision in two of the cases and partially upheld the council's decision in the third.
- 15 The number of police and other public authority requests for information has remained relatively stable over the two years; with processes in place for such requests to ensure that information is shared appropriately.
- 16 The community trigger gives individuals and communities the right to request a review of their case of anti-social behaviour or hate crime, if they are not happy with the response from the relevant authorities.
- 17 A community trigger can be applied for if:
- an individual has reported three or more incidents of anti-social behaviour in the past six months to the local authority, the police or their housing association
 - an individual and four or more further individuals have complained separately about similar incidents of anti-social behaviour in the past six months to the local authority, the police or their housing association.
- 18 Overall there have been less complaints made in this period, however any deviation from our own complaints policy opens up the organisation to reputational risk and possible penalty from the Local Government Ombudsman (LGO).

Local Government Ombudsman

- 19 During 2015/16 a total of 39 enquires were reviewed by the LGO compared to 47 in 2014/15. Of these 11 were up-held, compared to 17 in 2014/15. The LGO investigations that were upheld are summarised as follows:
- Adults and wellbeing had two LGO decisions upheld, concluding maladministration and no injustice. One complaint concerned an unreasonable delay in providing service and one concerned a breakdown of communication.
 - Economy communities corporate had three LGO decisions upheld concluding maladministration and injustice, of which one was due to the handling of a planning application, one was due to delay in handling a planning application

resulting in compensation paid to the complainant, and one concerning poor pre-planning application advice resulting in a refund of fees. Two further decisions were upheld concluding maladministration and no injustice.

- Children's Wellbeing had three LGO decisions upheld, two concluding maladministration and injustice due to poor communication of which one was with compensation paid, and one decision concluding maladministration but no injustice.
- Balfour Beatty Living Places had one LGO decisions upheld, concluding maladministration and injustice.
- Hoople had no decision upheld by the LGO.

Confidential reporting procedure

- 20 The monitoring officer is responsible for ensuring that concerns raised by whistleblowers are investigated in accordance with the council's policy. During 2015/16 there were three disclosures compared to one in the previous year.

Corporate governance

- 21 In line with the council's agreed values, one of the key elements of good corporate governance is open and transparent decision making. It is therefore appropriate to note any occasions when closed sessions of public meetings have taken place, when less than 28 days' notice of intention to take a key executive decision has been given, and the number of scrutiny call-ins conducted.
- 22 The public can be excluded from the whole or part of a meeting if the meeting is to discuss confidential or exempt information (as defined in schedule 12a of the Local Government Act 1972 as amended). During 2015/16 there were five occasions when this took place (two relating to regulatory sub-committee two to the employment panel and one to the audit and governance committee).
- 23 Key decisions to be taken by the executive are promoted on the council's website generally giving the required 28 days' notice. It is not always possible to provide this amount of notice and during 2015/16 there were thirteen occasions when a key decision was taken with more than five days but less than 28 days' notice being given; in all cases the chairman of the relevant overview and scrutiny committee was informed of this and of the reason in each case. This is a decrease from the 2014/15 figure of eighteen. Whilst the reduction in notice period was in most cases due to matters beyond the council's control (e.g. to respond to government deadlines or to respond in a timely way to rapidly changing circumstances) there were six instances which related to procurement or commissioning decisions where the delay in publishing the notice could have been avoided. The governance team has been working on the development of an online report management function to be implemented during 2016/17 which should assist in improving adherence to the forward planning processes. There were no cases of 'special urgency' where key decisions were taken with less than five days' notice.
- 24 General overview and scrutiny committee did not call in any executive decisions during 2015/16. Health and social care overview and scrutiny committee called in one executive decision in relation to proposed changes to the level of support available from the supported housing for young people project (SHYPP). The committee requested that cabinet reconsider the decision taking into account counter proposals made by SHYPP. Cabinet considered the decision further in light of this and reaffirmed its decision.

- 25 During 2015/16 the general overview and scrutiny committees made a total of 61 recommendations to the executive. Of these 44 were accepted in full, 16 accepted in part, and one rejected. The health and social care overview and scrutiny committee made a total of 18 recommendations to the executive. Of these nine were accepted in full, six accepted in part and three rejected.
- 26 The monitoring officer is responsible for ensuring that any investigation using discreet surveillance or similar evidence gathering techniques is appropriately authorised in accordance with the provisions of the Regulation of Investigatory Powers Act 2000 (RIPA). During 2015/16 no such authorisations were requested.

Community impact

- 27 This report provides information about the council's performance in relation to governance and standards, in support of the council's code of corporate governance.

Equality duty

- 28 There are no equality duty implications arising directly from this report, which is for information.

Financial implications

- 29 There are no financial implications arising directly from this report, which is for information.

Legal implications

- 30 There is no statute that specifically requires the monitoring officer to produce an annual report, however the committee can be assured that the legal issues raised in this report have been fully complied with.

Risk management

- 31 There are no risks arising directly from the report which is for information. Effective governance processes mitigate the risk of legal challenge to decision-making and maintaining high standards of conduct mitigates risks to the reputation of the authority.

Consultees

- 32 Not applicable.

Appendices

- None.

Background papers

- None identified.