

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	17 SEPTEMBER 2010
TITLE OF REPORT:	MONITORING OFFICER REPORT 2009-10

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To inform the Committee about the matters within the responsibility of the Monitoring Officer and the Council's performance for 2009-10 with regard to the complaints to the Ombudsman and the standards framework.

Background

This report forms the regular report from the Monitoring Officer to the Audit and Governance Committee.

Recommendation

THAT: the Committee notes the content of the report and provides comments and feedback to the Monitoring Officer.

Key Points Summary

- The Monitoring Officer's activities in the period from June 2009 to date have focused on:
 - A Constitutional review programme – now in Phase 3
 - Ensuring that Legal and Democratic Services support good governance and high standards of conduct and probity as well as fulfilling the day to day functions
 - Supporting the Shared Services project with emphasis on governance and developing the organisational model and heads of terms
 - Dealing with all Monitoring Officer activities with emphasis on the Standards framework
 - Dealing with Ombudsman complaints
- The Monitoring Officer has made no formal statutory report to Council on any actual or intended unlawful activities since June 2009

Further information on the subject of this report is available from
Ms Charlie Adan, Assistant Chief Executive – Legal and Democratic on (01432) 260200

- The Monitoring Officer has dealt with a number of enquiries and investigations during the period
- The handling of Ombudsman complaints and decisions

These activities are complimented by and are in addition to the day to day core support and other functions of the Legal and Democratic Services teams.

Alternative Options

- 1 There are no alternative options. This report is for information only.

Reasons for Recommendations

- 2 The Monitoring Officer is required to report on her activities as set out in this report and the Audit and Governance Committee should note the report and provide comments and feedback.

Introduction and Background

- 3 The Committee is aware that 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.

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 maladministration and that it responds appropriately to the Local Government Ombudsman in that regard. The Monitoring Officer is also responsible for supporting the local Standards Committee 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 s.151 Finance Officer (Director of Resources).

The Council must designate one of its officers as Monitoring Officer and the Council's constitution states that the Assistant Chief Executive – Legal and Democratic will fulfil these duties. Since the retirement of the former Assistant Chief Executive in June 2009, the interim Assistant Chief Executive – Legal and Democratic has fulfilled these duties. The post of Assistant Chief Executive – Legal and Democratic is being replaced by a new post of Assistant Director – Law and Governance and the Council's Constitution provides for that new post to be designated as Monitoring Officer as soon as a new appointee is in post.

The Monitoring Officer duties are to be exercised independently and are the personal responsibility of the designated officer who is required to report his/her activities regularly to the Council. The Council has nominated the Audit and Governance Committee to receive this report. The last report to the Committee was in March 2009 and this report covers the period from April 2009 to date. The Committee will receive a full report on the full year 2010/11 in May/June 2011.

Key Considerations

- 4 The interim Assistant Chief Executive – Legal and Democratic Services started working with the Council in June 2009 and has been designated Monitoring Officer since that time. Her activities have focused on:

1. Updating and producing a new Constitution for the Council, reviewing the PCT Board developing integrated governance across the HPS partnership. In particular, the following has been achieved in the Council:
 - a. A new Council Constitution and an ongoing process of constitutional review led by a cross party Constitutional Review Working Group and to which the Audit and Governance Committee has contributed. The Code of Corporate Governance has been incorporated as a preamble to the Constitution. The Constitution has been the subject of a technical redraft. All changes to date have been approved by Council with cross party support. The Constitution is more accessible and more easily understood. Further work is continuing on Phase 3 of this process including a review of the arrangements for the discharge of the Council's regulatory functions and a review of the Financial Rules.
 - b. Training of officers and elected members on the new Constitution and the development of member and officer development programmes to build greater awareness of governance issues including preparing a new revised member induction programme for May 2011.
 - c. The development of a new Functions Scheme (scheme of delegation) and the development of a new Chief Executive's scheme of delegation and review and updating of Directorate schemes of delegation (ongoing).
 - d. The development of a new forward planning and agenda management process linking executive and Council agenda planning and decision making with service, directorate and corporate planning and decision making and the creation of a new cross Council (and PCT) agenda management network and the roll out of guidance and training on the new processes. This will assist with proper effective governance by ensuring a "no surprises" approach and help plan for pre-decision scrutiny.
2. Ensuring the Legal and Democratic Services functions were fit for purpose and supporting good governance and high standards of probity and conduct across the HPS partnership
 - a. Undertaking a review of the functions and the management arrangements with service managers and with input from staff at consultation away day events
 - b. The provision of interim senior support for the Election 2010 and a restructure of the Elections team and agreement with the Returning Officer for the recruitment of a new senior Electoral Services manager (ongoing)
 - c. A proposed new management structure for the services to be aligned with the overall organisational design project (due to be finalised in October 2010)
 - d. Development of the remit of Legal and Democratic teams and team members to improve support to democratic and decision making processes whilst maintaining legal support to front line services including all legal casework and day to day democratic support functions.
 - e. A review of the outside bodies on which the Council is represented, the preparation of guidance for members and officers supporting outside bodies and putting in place nominated support officers for members representing the Council on key outside bodies (ongoing)
3. Supporting the further integration of HPS management and the development of the shared

support services

- a. Supporting the Shared Services team on all legal issues arising as the project progresses with particular emphasis on the evaluation and development of the organisational models and the Heads of Terms of agreement between the partners (ongoing)
 - b. Developing the proposals for a Legal Services shared service to deliver improvements in service and efficiencies in line with the shared service objectives and principles (ongoing)
4. Dealing with any specific Monitoring officer activities and in particular improving the support and functioning of the support to the Standards Committee and administration of the Standards framework
- a. Supporting the activities of the Standards committee as reported in its annual report to Council on 28 May 2010 including the processing of 55 (including 48 parish) complaints between January 2009 and May 2010.
 - b. Reviewing and re-aligning existing officer time and other resources to support the Standards Committee and undertaking a review of and making improvements to the internal standards support arrangements.
 - c. Reviewing and issuing new guidance and information on standards matters including the development of a new guidance note for councillors on blogging and social networking
 - d. Conducting and commissioning standards and other investigations, including a series of repetitive complaints about the management of Bromyard Downs Common and the actions of the Council in relation to a specific regulatory matter (both of which are ongoing issues)
 - e. Responding to a direction from Standards for England to the Monitoring Officer to take action in relation to Kington Town Council following a number of standards related complaints including conducting a governance review, putting in place a new Town Council complaints process, processing a large number of outstanding complaints, making improvements to the support arrangements for the council and considering further conciliation to improve relationships as directed.
5. Handling all Ombudsman cases referred to the Council for response and following up recommendations
- a. During the year ended 31 March 2009 the Ombudsman received 67 complaints about Herefordshire Council of which 32 were about planning and building control, 7 concerned adult care or children or family services, 6 related to transports and highways, 3 were about housing, 3 were about public finance and 1 was about benefits. The remaining 12 fell in the "other" category. Appendix 1 contains the Ombudsman's Annual Review for Herefordshire Council for this period. There were no formal reports finding maladministration issued. There was one complaint that resulted in a local settlement.
 - b. During the year ended 31 March 2010 the Ombudsman received 44 complaints about Herefordshire Council of which 20 were about planning and building control, 5 concerned adult care or children or family services, 4 related to transports and highways, 1 was about education, 1 was about housing, and 1 was about public

finance. The remaining 11 fell in the “other” category. Appendix 2 contains the Ombudsman’s Annual Review for Herefordshire Council for this period. Although the overall level of complaints to the Ombudsman fell, there were 2 complaints settled locally and a formal report of a finding of maladministration causing an injustice was issued in relation to one complaint. That formal report was reported to full Council as required.

Community Impact

- 5 Compliance with its legal obligations, effective governance and high standards of conduct impact on the council’s relationship with and its ability to lead the communities of Herefordshire. In addition, the Monitoring Officer has responsibility (working with Herefordshire Association of Local Councils) for standards in Parish Councils and for the operation of the standards framework and Code of Conduct for parish councillors. Parish Councils are also important to the communities they serve. The activities of the Monitoring Officer have the potential to have a positive impact on communities.

Financial Implications

- 6 There is no separate funding for Monitoring Officer activities. The Legal and Democratic Services teams, and in particular Democratic and Legal Services support the Monitoring Officer in fulfilling her functions and have made a significant contribution to the activities set out in this report and ensuring legal compliance and good governance across the Council (and its wider HPS partnership).

Legal Implications

- 7 The proper discharge of the Monitoring Officer functions is critical to ensuring that the Council is acting lawfully and that the legal implications of its activities are fully understood and acted upon appropriately.

Risk Management

- 8 The Corporate Risk Manager reports to the Monitoring officer and is responsible for ensuring effective risk management systems and processes are in place across the Council, that those systems and processes are being complied with and that risk registers and risk management reporting and monitoring is taking place at all levels as required with significant corporate and strategic risks being escalated to senior management and elected members as appropriate.

Consultees

- 9 None

Appendices

- 10 Appendix 1 – Ombudsman Annual Review 2008-9
Appendix 2 – Ombudsman Annual Review 2009-10

Background Papers

- None identified.