

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	23 AUGUST 2011
TITLE OF REPORT:	MONITORING OFFICER REPORT 2010-11

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 2010-11 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

It is recommended that the Committee:

- 1. Notes the content of this report and provides comments and feedback to the Monitoring Officer**

Key Points Summary

- The Monitoring Officer's activities in the period from June 2010 to date have focused on:
 - A Constitutional review programme – now in Phase 3
 - Holding all-Council and all-parish elections in May 2011 and delivering a new member training programme
 - Ensuring that Law Governance and Resilience 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 until October 2010 and ensuring the orderly transition of cases to the Customer Insight Team
- The Monitoring Officer has made no formal statutory report to Council on any actual or intended unlawful activities since September 2010
- The Monitoring Officer has dealt with one investigation during the period

These activities are complimented by and are in addition to the day to day core support and other functions of the Law Governance and Resilience 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 his 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 Officers 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).

Key Considerations

- 4 The interim Assistant Chief Executive – Legal and Democratic Services started working with the Council in June 2009 and continued in that role until December 2010, when the current postholder took up his appointment. Their activities since the last Monitoring Officer report in September 2010 are described hereafter.
5. The review of the Council's Constitution in consultation with a constitutional review working group was concluded. However, it is recognised that this represents an on-going body of work for which a formally constituted member committee might be the appropriate vehicle. Discussions are taking place currently to determine how this might be achieved. The following constitutional changes have been made in the current municipal year:
 - a. a new scheme of members allowances
 - b. a revised scheme of delegation for officers

- c. revised Overview and Scrutiny Committee arrangements with all main committee and several task and finish groups headed by Vice Chairs drawn from that committee
6. Following elections for all seats on both this Council (and all parishes) held in May, a programme of training and induction for members of this Council is being rolled out.
7. The Law and Governance service area has been enlarged to include Resilience. This covers emergency planning, risk management, health and safety, contingency planning and related disciplines.
8. Proposals for a whole scale restructure of the Law Governance and Resilience functions are currently being developed as part of the Councils Organisational Design exercise. A Head of Legal Services to manage the new shared legal service is currently being recruited and this is the first year of operation of the new legal trading model, serving not only the Council but also partner organisations across Herefordshire Public Services.
9. The publication of the Localism Bill heralds the end of the current regime under which member conduct is governed by the Standards Committee and Standards for England. The Bill should receive the Royal Assent before the end of 2011. Consideration is currently being given as to whether a voluntary code of conduct should be introduced thereafter.
10. The Monitoring Officer has continued to support the work of the Standards Committee. A summary of the work of that committee in the year 2010/11 is as follows:
 - 48 complaints were dealt with between April 2010 and March 2011. Out of these:
 - 29 required no further action;
 - 10 were referred to the Monitoring Officer for training;
 - 6 were referred to the Monitoring Officer for written guidance; and
 - 3 were referred to the Monitoring Officer for investigation.
 - Of the 48 complaints, 35 were made about parish/town councillors; and 13 were about Herefordshire Councillors
 - 39 of the allegations were about bullying, failing to treat others with respect, or breaching the Equality Act 2006 (Paragraph 3 of the Code of Conduct). 11 allegations related to members bringing their office into disrepute (Paragraph 5 of the Code) and or using their positions to secure an advantage for themselves (Paragraph 6 of the Code).
 - Of the 35 complaints against parish or town councillors, 28 related to members of the same council. The Monitoring Officer undertook training with members for 14 of those complaints; 16 required no further action. Of the remaining 5 parish/town council complaints, 4 were referred for training, and 1 was incorporated into an on-going investigation.
 - In respect of Herefordshire Councillors, of the 13 complaints, 6 were about the same Councillor. No action was required in 6 cases, 4 cases were referred to the Monitoring Officer for other action, such as training or written guidance, and 3 were referred for investigation.

Review Sub-Committee

- In cases when the Assessment Sub-Committee decides that no further action is required, complainants are entitled to ask for a review of the complaint, which is looked at by an entirely different panel of members. The Review Sub-Committee dealt with 7 cases during the period, re-examined each case from scratch, but in no instance reversed the decision of the Assessment Sub-Committee.

Consideration Sub-Committee

- The Consideration Sub-Committee looks at investigation reports, and can either decide to hold a hearing, or in cases where the Investigating Officer has not found a breach of the Code, to accept the report and take no further action. The Sub-Committee dealt with 9 cases during the period, and decided that action was required by the Monitoring Officer in respect of 5 of these. The Sub-Committee decided that there had been no breach of the Code in 4 cases, and these are now closed.

Hearing Sub-Committee

- One hearing has been held during the period and a breach of the Code was found and sanctions were imposed on the parish councillor concerned.

11. The Monitoring Officer passed the responsibility for ombudsman cases to the Assistant Director, Customer Services and Communications in October 2010 and he will attend the meeting to address the committee. The Ombudsman's annual report is appended to this report (Appendix A). There were no reports of maladministration, with or without injustice, and there were 8 local settlements.

Community Impact

12. 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

13. There is no separate funding for Monitoring Officer activities. The Law and Governance team support the Monitoring Officer in fulfilling his 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

14. 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

15. The Resilience Team 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

16. None

Appendices

17. Appendix A - Ombudsman Annual Review 2010-11

Background Papers

- None identified.