

MONITORING OFFICER PROTOCOL

1.0 Statutory Responsibilities

- 1.1 The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out his/her functions.
- 1.2 The Monitoring Officer is responsible for ensuring that the Authority and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Combined Authority's primary source of advice on all legal issues, and to Members on their legal obligations, but he/she also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality.
- 1.3 The Combined Authority recognises that an effective Monitoring Officer, positively engaged in the discharge of the Authority's business, is essential to the effective running and sound corporate governance of the Council.
- 1.4 Section 5(1) Local Government and Housing Act 1989 requires the Combined Authority to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility:
 - to report on actual, and anticipated, illegality within the Authority
 - to report cases where the Ombudsman has found maladministration on the part of the Authority
 - to maintain the Register of Members' Interests; and
 - to administer, assess and investigate complaints of Members' misconduct.

2.0 Working Arrangements

- 2.1 The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the way the Combined Authority expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer to enable him/her to discharge these functions effectively.
- 2.2 In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on the Mayor, Members and Officers:
 - complying with all the relevant law and any relevant codes of conduct.
 - complying with any general guidance and advice provided from time to time, by the Monitoring Officer.

- making lawful and proportionate decisions; and
- generally not taking action that would bring the Combined Authority, their Offices or professions into disrepute.

- 2.3 The Monitoring Officer undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Combined Authority. In doing so, they will also safeguard, so far as is possible, the Mayor, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 2.4. Having excellent working relations with the Mayor, Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer and keep the Combined Authority out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Mayor or the Combined Authority) will assist in fulfilling those responsibilities. The Mayor, Members and Officers must, therefore, work with the Monitoring Officer in discharging these responsibilities.
- 2.5 The Monitoring Officer issues guidance to Officers to assist them in understanding the nature, breadth and requirements that the Monitoring Officer puts upon all Officers. This protocol also explains how the Monitoring Officer will approach the role. The Monitoring Officer considers that the role is a positive and preventative one, related to legality, avoidance of maladministration and observance of codes of conduct /practice where there is actual / potential transgression by the Mayor and/or the Combined Authority.
- 2.6 The Monitoring Officer gives authoritative advice and guidance on these issues which will be conducive to a culture of propriety and integrity. This will provide comfort for Officers, the Mayor and Members alike. However, although the Monitoring Officer will seek to be positive about the role, it must be recognised that the role imposes a personal duty to make a public, statutory report where it appears to be necessary. This might ultimately force the Mayor and/or the Combined Authority to consider issues they/it might not wish to.
- 2.7 The Monitoring Officer and the Mayor and/or the Combined Authority should co-operate in every way possible so as to reduce the need for the Monitoring Officer to issue a formal report. In support of this, the Monitoring Officer places significant reliance upon the advice and support given by colleagues in Legal Services, Human Resources and Democratic Services, but particularly those in the Legal Services team who will, in providing corporate legal advice do so in an enabling manner, but also identify areas of particular risk and concern, assisting Officers, the Mayor and Members to achieve their objectives, but ultimately in a lawful and proper manner.
- 2.8 The following arrangements and understandings between the Monitoring Officer, the Mayor, Members and Chief Officers are designed to ensure the effective discharge of the Combined Authority's business and functions.

2.9 The Monitoring Officer will:

- be alerted by the Mayor, or by Members or by Officers to any issue(s) that may become of concern to the Combined Authority, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise.
- have advance notice of at least five working days (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Combined Authority at which a binding decision of the Combined Authority may be made) at or before the Combined Authority's meetings or any binding decision to be made by the Mayor, including in both cases, a failure to take a decision where one should have been taken.
- have the right to attend any meeting of the Combined Authority before any binding decision is taken by the Combined Authority or to be notified and where necessary meet with the Mayor before he/she makes any binding decision, including in both cases, a failure to take a decision where one should have been taken)
- in carrying out any investigation have unqualified access to any information held by the Mayor and/or the Combined Authority and to any Officer who can assist in the discharge of these functions.
- ensure the other statutory Officers are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise.
- report to the Combined Authority, from time to time, on the Constitution and any necessary or desirable changes.
- as per the statutory requirements, make a report to the Combined Authority, as necessary on the staff, accommodation, and resources they require to discharge their statutory functions
- have a special relationship of respect and trust with the Mayor, and chairs of the Combined Authority's committees, sub-committees and working groups with a view to ensuring the effective and efficient discharge of Mayoral and/or Combined Authority business
- develop effective working liaison and relationship with the Internal and External Auditor, BEIS, DLHUC and the Local Government Ombudsman (including having the authority, on behalf of the Mayor or the Combined Authority, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary)
- maintain and keep up-to-date relevant statutory registers for the declaration of Members' interests, gifts and hospitality.

- give informal advice and undertake relevant enquiries into allegations of misconduct; defer the making of a formal report under s5 Local Government and Housing Act 1989 where another investigative body is involved
- have sufficient resources to enable them to address any matters concerning their Monitoring Officer functions
- be responsible for preparing any training programme for Members on ethical standards, Code of Conduct issues, data protection, confidentiality, and general governance of the Combined Authority.
- ensure that the Mayor and Members and Officers of the Combined Authority are fully aware of their obligations in relation to probity.

2.9 To ensure the effective and efficient discharge of these arrangements, the Mayor, Members and officers will report any breaches of statutory duty or Combined Authority policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

2.10 The Monitoring Officer is also available for the Mayor, Members and Officers to consult on any issues in respect of possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements. Monitoring the Protocol

3. Monitoring the Protocol

3.1 The Monitoring Officer will report to the Combined Authority as to whether the arrangements set out in this protocol have been complied with and will include any proposals for amendments in the light of issues which have arisen.

4. Conflicts and Interpretation

4.1 Where the Monitoring Officer has received a complaint or is aware of an event which may lead to them issuing a statutory report relating to a matter upon which they have previously advised the Mayor and/or the Combined Authority, they shall consult the Head of Paid Service who may then either:

- i. refer the matter to another Officer for investigation and report to the Head of Paid Service; or
- ii. ask another authority to make their Monitoring Officer available to investigate the matter and report to the Head of Paid Service and/or the Combined Authority as appropriate; or
- iii. instruct another qualified person to undertake the investigation and report to the Head of Paid Service and / or the Combined Authority as appropriate.

4.2 Questions of interpretation of this guidance will be determined by the Monitoring Officer.