

Part 5.8

Protocol for the Monitoring Officer

1. The Monitoring Officer undertakes to discharge the responsibilities outlined in this Protocol with determination and in a manner which will enhance the reputation of the Council. In general terms the ability to discharge these duties depends on excellent working relations with colleagues and elected Members of the Council, but also on the flow of information and access to debate, particularly at early stages.
2. The following arrangements and understandings between the Monitoring Officer and colleagues and Councillors are designed to help ensure the effective discharge of the Monitoring Officer's functions:-
 - a) The Monitoring Officer will be a member of the Council's Corporate Management Team.
 - b) The Monitoring Officer will be given advance notice of meetings (whether formal or informal) between Chief Officers, Committee and Sub Committee Chairmen where any procedural, vires or other constitutional issues are likely to arise.
 - c) The Monitoring Officer will have access to all meetings.
 - d) Members of the Corporate Management Team (The Chief Executive, Executive Director and Heads of Service) will be responsible for alerting the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
 - e) The Monitoring Officer will be provided with a copy of all reports to Councillors.
 - f) The Monitoring Officer is expected to develop good liaison and working relations with the Scrutiny Committee, the Joint Standards Complaints Committee, the District Auditor and the Local Government Ombudsman, to ensure that the council's duty to uphold promote and maintain high standards of conduct by members is discharged and ensure high standards of good governance and transparency in the way the council operates. This will include giving and receiving relevant information, whether confidential or otherwise, whether requested or not.
 - g) The Monitoring Officer will develop effective relationships with all Members of the Council, and will ensure that the Head of the Paid Service and the Chief Financial Officer have up-to-date information regarding emerging issues.
 - h) The Monitoring Officer will be expected to receive complaints about, and make or commission enquiries into allegations of misconduct and if appropriate will make a written report to the East Northamptonshire Joint Standards Committee in accordance with the provisions of Part 9 of this Constitution.

- i) The Head of the Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other probity matters.
- j) In carrying out any investigation the Monitoring Officer will have unqualified access to any information held by this Council and any East Northamptonshire Council employee who can assist in the discharge of his/her functions. The Monitoring Officer may request such access to any of the Town and Parish Councils in East Northamptonshire.
- k) The Monitoring Officer will have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning their functions.
- l) The Monitoring Officer will be responsible for preparing a training programme for Members of the Council on the Code of Conduct and other matters relating to the governance and ethical framework, for approval by the Scrutiny Committee. A similar programme will be prepared for Town and Parish Councillors for consideration by the East Northamptonshire Joint Standards Complaints Committee.
- m) 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 the Paid Service and the Chief Financial Officer.
- n) The Monitoring Officer will report to the Council as necessary on any changes required to the staff, accommodation and resources required to discharge his/her functions.
- o) The Monitoring Officer will appoint a deputy to act in his/her absence and will ensure that he/she is briefed on emerging issues.
- p) The Monitoring Officer will make arrangements to ensure good communication between his/her office and the Clerks to the Town and Parish Councils in East Northamptonshire.
- q) When a conflict of interests arises on any issue that requires his/her advice, the Monitoring Officer will remove him/herself from the consideration of the issue.

Summary of Monitoring Officer Functions

Description		Source
1	Report on contraventions or likely contraventions of any enactment of rule of law	Section 5, Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5, Local Government and Housing Act 1989
3	Personal appointment of Deputy	Section 5, Local Government and Housing Act 1989
4	Report on resources	Section 5, Local Government and Housing Act 1989
5	Receive and investigate complaints of Councillor misconduct in compliance with Part 9 of this Constitution.	Localism Act 2011 and Part 3.2 of this Constitution.
6	Establish and maintain registers of Members' interests and gifts and hospitality	Section 81 LGA 2000, Localism Act and Part 5.1 of this Constitution
7	Advice to Members on the interpretation of the Code of Conduct and Local Protocols	Parts 3.2, 5.1 and 9 of this Constitution.
8	Key role in promoting and maintaining high standards of conduct through support to the Scrutiny Committee and East Northamptonshire Joint Standards Complaints Committee	Parts 3.2, 5.1 and 9 of this Constitution
9.	New standards framework functions in relation to Town and Parish Councils	Localism Act 2011 and associated regulations together with Parts 3.2, 5.1 and 9 of this Constitution
10	Compensation for maladministration	Section 92 LGA 2000
11	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all elected Members	DETR guidance; Council Constitution.

3. The Monitoring Officer is to be the primary qualified person in respect of the application of section 36 of the Freedom of Information Act 2000 in accordance with the Secretary of State's decision of December 2004. Where the Monitoring Officer is absent responsibility for carrying out the functions of the qualified person will fall to the Chief Executive.
4. The Monitoring Officer is the senior officer responsible for the council's administration of the Regulation of Investigatory Powers Act 2000 (covert surveillance)

Amended – Council 16 July 2012 minute 108