

<b>SUBJECT:</b>	Review of the Protocol on the Role of the Monitoring Officer
<b>REPORT OF:</b>	Monitoring Officer
<b>RESPONSIBLE OFFICER</b>	Joanna Swift
<b>REPORT AUTHOR</b>	Joanna Swift
<b>WARD/S AFFECTED</b>	None

### 1. Purpose of Report

To consider whether the protocol on the role of the monitoring officer remains fit for purpose.

#### **RECOMMENDATION:**

**That the updated Protocol attached at Appendix 1 be approved.**

### 2. Reasons for Recommendations

It is good practise to review protocols and procedures on a regular basis to ensure they remain up to date and effective.

### 3. Content of Report

- 3.1 The monitoring officer is a statutory appointment under section 5 of the Local Government and Housing Act 1989. At both Chiltern and South Bucks District Councils this role is undertaken by the Head of Legal and Democratic Services
- 3.2 The monitoring officer has a duty to submit a report to Full Council on any proposal, decision or omission by the Council, Cabinet, committee or officer which has given rise to, or would be likely to give rise to, a contravention of any law or statutory code of practice. To date it has not been necessary for the monitoring officer to make such a report. There is also a duty to report on any finding of maladministration made against the Council by the Local Government Ombudsman. Again to date it has not been necessary for the monitoring officer to make such a report.
- 3.3 The monitoring officer also serves as the guardian of the Council's Constitution and decision-making processes with responsibility for advising the Council on the legality of its decisions and providing guidance to members and officers on procedural rules and legal powers. Under the Council's Access to Information Procedure Rules the monitoring officer is required to ensure that decisions of the Cabinet (together with reasons for those decisions), officers acting under delegated authority and background papers are made publicly available.
- 3.4 The monitoring officer also supports Audit and Standards Committee in discharging its duty to promote and maintain high standards of conduct and probity within the Council. Under the Member Complaints procedure the monitoring officer decides, in consultation with the Chairman of this committee and the Council's Independent Person, whether an investigation should be held into allegations that members of the Council (and town/parish councils in the

District) may have breached the members' code of conduct. The monitoring officer also deals with members' requests for dispensation under section 33 of the Localism Act again in consultation with the Chairman of this Committee and the Independent Person.

- 3.5 Under the Localism Act 2011 the monitoring officer is required to establish and maintain a register of members' disclosable pecuniary interests for both district and town/parish councillors, as well as any other non-pecuniary interests required to be disclosed under the Councils' codes of conduct.
- 3.6 It is vital that the monitoring officer carries out these various responsibilities in a positive manner which seeks to enhance the overall reputation of the Council. In doing so the monitoring officer will also safeguard, as far as possible, members and officers from legal challenge and/or criminal sanctions whilst acting in their official capacities
- 3.7 To undertake this role effectively the monitoring officer needs to foster and maintain good working relations with members and officers. Equally, a speedy flow of relevant information (particularly in the early stages of any decision-making by the Council) is vital; so communication needs to be two-way. To ensure that members and officers understand the role and are clear about how the monitoring officer will discharge it, the adoption of a protocol is considered to be useful best practice. The protocol attached at Appendix 1 was originally approved in October 2013. The Committee last reviewed and updated it in January 2016.
- 3.8 The Committee is invited to consider whether the protocol remains fit for purpose and to agree the proposed amendments shown in bold and underlined at Appendix 1, which seek to clarify the role and key contacts involved.

#### **4. Consultation**

There is no statutory requirement to consult on changes to this protocol.

#### **5. Options**

The Committee has the option of proposing other changes to the protocol which, if substantive, would be the subject of wider consultation with members and the senior management team.

#### **6. Corporate Implications**

Financial - None

Legal – As set out in the report

Risks issues – None

Equalities - None

#### **7. Links to Council Policy Objectives**

Whilst there is no direct link to the Council's main objectives the adoption and regular review of a protocol on the role of the monitoring officer supports arrangements to ensure good governance of the Council.

**8. Next Steps**

An updated Protocol will be published on the Council's website.

<b>Background Papers:</b>	None except those referred to in the report
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