
REPORT TO:	FINANCE & MANAGEMENT COMMITTEE	AGENDA ITEM: 13
DATE OF MEETING:	19 JULY 2001	CATEGORY: DELEGATED
REPORT FROM:	CHIEF EXECUTIVE	OPEN:
MEMBERS' CONTACT POINT:	FRANK McARDLE, X5702	DOC:reports.f&m.monitoring officer
SUBJECT:	THE MONITORING OFFICER	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: CE8

1.0 Recommendations

- 1.1 That the Legal & Members' Services Officer be appointed Monitoring Officer with effect from 28 July 2001 and that he be given authority to appoint a deputy if he considers that it is appropriate.

2.0 Purpose of Report

- 2.1 For members to appoint a new officer to the position of Monitoring Officer with effect from the 28 July 2001 when it becomes illegal for the Head of Paid Services, (currently the Monitoring Officer) to hold both positions.

3.0 Detail

- 3.1 Since 1989 it has been a requirement for local authorities to appoint a Monitoring Officer with the responsibility for overseeing vires issues, reporting to the authority if he or she thinks that any proposal, decision or omission would give rise to unlawfulness or maladministration. The guidance on the new constitutions, which all members have a copy of, states at paragraph 9.117 that:-
- "The Monitoring Officer therefore performs a key function in ensuring lawfulness and fairness in the operation of the local authority's decision making process ..."
- 3.2 The Monitoring Officers' responsibility is further increased with the implementation of Part III of the Local Government Act 2000 on Standards where he/ she has a key role in promoting and maintaining high standards of conduct within the authority.
- 3.3 These include receiving reports from Ethical Standards Officers appointed by the regional Standards Board, conducting investigations into allegations of misconduct, and the establishment of a register of interests for members and co-opted members, both for this authority and the parish councils in the area.
- 3.4 The extent of some of these new duties has only been outlined in a draft model code of conduct so far.

- 3.5 The monitoring officer will also be the first point of call for the Overview Committee should it have any concerns about the vires of a decision taken by a committee etc.
- 3.6 Councils have a new duty to provide the Monitoring Officer with sufficient support and staff to enable these new duties to be carried out and the guidance also recommends, at paragraph 9.119 that:-

“In order to undertake these roles, the local authority will need to ensure that the monitoring officer has access as necessary to meetings and papers and that members consult with her or him regularly”.

- 3.7 Guidance also recommends that provision should be made to enable the Monitoring Officer to appoint a deputy in cases of illness or absence.
- 3.8 Guidance recommends that the Monitoring Officer is also the proper officer for ensuring the compliance with record keeping and access to information rules.
- 3.9 The constitution also puts responsibility on the Monitoring Officer to consider all proposals for the amendment of the Constitution before putting any suggested amendments to Council.

4.0 Financial Implications

- 4.1 None, although final regulations on the role and responsibilities of the Monitoring Officer have yet to be published.

5.0 Corporate Implications

- 5.1 It is a legal requirement for the Chief Executive to be replaced as Monitoring Officer with effect from 28 July 2001.

6.0 Community Implications

- 6.1 None.

7.0 Conclusions

- 7.1 With effect from the 28 July 2001 the Chief Executive who is currently the Monitoring Officer is no longer able to perform both these roles.
- 7.2 It is a statutory requirement for an authority to have a Monitoring Officer. The example modular constitution cites the Chief Legal Officer as Monitoring Officer there is no specific guidance on which officer should be appointed monitoring officer although it would, given the range of responsibilities, seem appropriate for the Legal & Members' Services Manager to be appointed Monitoring Officer.

8.0 Background Papers

- 8.1 New Council Constitutions Guidance Pack – Volumes 1 & 2
- 8.2 Local Government Act 2000