

Executive Summary and Recommendations

Title of Report:	Monitoring Officer Profile
Date:	17 March 2010
<p>Summary of this Report</p> <p>1.1 The follow-up ethical governance audit, presented to the Committee at the last meeting, concluded as part of the findings that the role of City Council's Monitoring Officer was not as widely understood as is the case in some other Authorities.</p> <p>1.2 The audit recommended the Standards Committee consider ways of raising the profile of the Monitoring Officer.</p> <p>1.3 This report addresses this recommendation by:</p> <ul style="list-style-type: none"> (i) evaluating Westminster City Council's existing Monitoring Officer profile; (ii) outlining actions to raise the profile of the Monitoring Officer. <p>2. Recommendations</p> <p>2.1 That the Committee approve the revised protocol set out in Appendix 1.</p> <p>2.2 That the Committee approve the actions aimed at raising the profile of the Monitoring Officer as set out in Section 5 of the report.</p>	



City of Westminster

Committee Report

Item No:	
Date:	17 March 2010
Classification:	For General Release
Title of Report:	Monitoring Officer Profile
Report of:	Head of Legal Services
Wards involved:	N/A
Policy context:	High Ethical Standards
Financial summary:	There are no financial implications
Report Author:	Naomi Stauber
Contact details	Tel: 020 7641 2341 Email: nstauber@westminster.gov.uk

3. Background Information

- 3.1 The Audit Commission conducted a follow-up to its original ethical governance audit, conducted in 2005. The follow-up audit was conducted during September and October 2009 and consisted of a range of surveys and interviews and consideration of a cross section of written material by the Auditor.
- 3.2 The findings of the follow-up audit were presented to the Standards Committee by Alison Kelly, the Audit Commission's "National" Lead on ethical governance at the last meeting held on 15th February 2010.
- 3.3 Based on the findings, Officers prepared a draft action plan – which was approved by the Committee. One of the objectives was to enhance the profile of the Standards Committee, externally and internally. This will be the subject of a further report to the Committee in July.
- 3.4 The recommendations made by the follow-up ethical audit included enhancing the profile of the Monitoring Officer.
- 3.5 The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. The postholder (Head of Legal Services) is broadly responsible for ensuring that the actions of the local authority comply with relevant legislation, regulation and codes of practice and with the provisions of its own constitution.
- 3.6 The role has been expanded with extra functions assigned under the Local Government Act 2000 and the Local Government and Public Involvement Act 2007. These are set out in the proposed protocol (Appendix 1).

4. EVALUATION OF THE WESTMINSTER CITY COUNCIL MONITORING OFFICER PROTOCOL

- 4.1 The existing Protocol for the role of the City Council's Monitoring Officer is contained

- (i) within the Council's Constitution, Article 12, Section 3:

Functions of the Monitoring Officer

- (a) ***Maintaining the Constitution:*** *The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.*
 - (b) ***Ensuring lawfulness and fairness of decision making:*** *After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the executive in relation to an executive function if he or she*

considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Supporting the Standards Committee:** *The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.*
- (d) **Receiving reports:** *The Monitoring Officer will receive and act on reports made by Ethical Standards officers and decisions of the case tribunals.*
- (e) **Conducting investigations:** *The Monitoring Officer will conduct investigations into matters referred by Ethical Standards officers and make reports or recommendations in respect of them to the Standards Committee.*
- (f) **Proper officer for access to information:** *The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.*
- (g) **Advising whether executive decisions are within the Budget and Policy framework:** *The Monitoring Officer will advise whether decisions of the executive are in accordance with the Budget and Policy framework.*
- (h) **Providing advice:** *The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and Budget and Policy framework issues to all Councillors and will support and advise officers in their respective roles.*
- (i) **Restrictions on posts:** *The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.*

*References: (Section 5), Local Government and Housing Act 1999
Sections 60, 64 – 66, Local Government Act 2000;
Chapters 8 and 9, DETR Guidance*

- (ii) Within the Council's Code of Governance, under Section 2 – The Officer Structure:

Functions of the Monitoring Officer (ie the Head of Legal Services)

- *To maintain the Constitution.*
- *To ensure lawfulness and fairness of decision making.*
- *To support the Standards Committee.*
- *To receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.*
- *To conduct investigations.*
- *To be the proper officer for access to information.*
- *To advise on whether executive decisions are within the budget and policy framework.*
- *To provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and Budget and Policy framework issues to all Councillors and support and advise officers in their respective roles.*

4.2 The existing Protocol explains, in some detail, the functions and responsibilities of the Monitoring Officer – as specified by the relevant legislation. The level of description provided by the aforementioned Constitution and Code of Governance, with regard to this role, fits the purpose of these documents. The Protocol details:

- (i) who performs the role of Monitoring Officer at Westminster City Council (the Head of Legal Services);
- (ii) the functions of the Monitoring Officer, as set out above;
- (iii) the basic role of the Monitoring Officer in relation to the Standards Committee;

4.3 However, it is desired to provide a greater and more easily understood protocol on the role of the Monitoring Officer, the following information could be provided:

- (i) an explanation of the statutory basis for the appointment of the Monitoring Officer;
- (ii) the Monitoring Officer's working arrangements;
- (iii) the relationship between the Monitoring Officer and other relevant Officers, Members, Committees, legislative bodies, etc;
- (iv) the exact functions undertaken by the Monitoring Officer in relation to Standards matters;

- (v) the resources required, utilised and controlled by the Monitoring Officer;
- (vi) the information required, utilised and accessed by the Monitoring Officer;
- (vii) a summarised description of the Monitoring Officer's functions, referenced with the appropriate legislative source.

5. PROPOSED ACTIONS TO RAISE THE PROFILE OF THE MONITORING OFFICER

- 5.1 Provide the information, detailed in 4.3 above, in a separate extended Protocol for the Monitoring Officer – a draft is attached as Appendix 1.
- 5.2 Make this Protocol available more prominently as a document on the Westminster City Council website, by including a link to the information at the following locations:
 - (i) Article 12, Section 3 of the Constitution – “Functions of the Monitoring Officer”.
 - (ii) Section 2 of the Code of Governance.
 - (iii) In the Governance section of the website.
- 5.3 Create greater awareness of the role of the Monitoring Officer amongst Council employees by publicising the new Protocol on the internal WIRE website. The Protocol would also sit as a separate document on the Legal Services section on the WIRE.
- 5.4 Expanding the explanation of the role of the Monitoring Officer within the “Understanding Local Government and Ethical Governance” training course, available for all Westminster City Council employees. The Monitoring Officer's role is already explained as part of the course which has been attended by approximately 120 staff.

If you have any queries about this Report or wish to inspect any of the Background Papers, Please Contact:
Naomi Stauber, Committee Officer, Tel: 020 7641 2341
Email: nstauber@westminster.gov.uk

Background Papers

Standards Committee Report, 15th February 2010: Ethical Governance Audit – Follow Up