



City of Westminster

MONITORING OFFICER PROTOCOL

1. STATUTORY RESPONSIBILITIES

- 1.1 The Monitoring Officer is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989. This Protocol provides guidance on how the duties of the Monitoring Officer will be carried out at Westminster City Council.
- 1.2 The role of the Monitoring Officer is assigned to the Head of Legal Services under the provisions of the Constitution, Article 12.01.
- 1.3 A summary of the Monitoring Officer's responsibilities are set out more fully in section 6.0 of this Protocol. These duties will be carried out in accordance with the Council's Constitution, legislative requirements and relevant Government guidance. The Monitoring Officer's ability to carry out these duties and responsibilities effectively will depend upon the proactive assistance and co-operation of Members and Officers:
 - (i) complying with the law and relevant Codes of Conduct;
 - (ii) complying with any general guidance, codes or protocols issued by the Standards Committee and the Monitoring Officer;
 - (iii) making lawful and proportionate decisions;
 - (iv) not taking action that would bring the Council, their offices or professions into disrepute.

2. WORKING ARRANGEMENTS

- 2.1 The Monitoring Officer will promote effective working relations with Members and Officers to advance good governance, the highest standards of ethical behaviour and the effective discharge of the Monitoring Officers statutory duties. A speedy flow of relevant information and access to debate, particularly at the early stages of any decision-making by the Council, is central to fulfilling those responsibilities. Members and Officers are required to work with the Monitoring Officer and (and his/her staff) to this end.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members, the Head of Paid Service, the Chief Financial Officer and Officers are designed to ensure the effective discharge of the Council's business and functions.

2.1 Resources

The Monitoring Officer will:

- (i) report to the Council, as necessary on the staff, accommodation and resources he/she requires to discharge his/her statutory functions;

- (ii) have sufficient resources to enable him/her to address any matters concerning his/her functions as Monitoring Officer;
- (iii) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions;
- (iv) appoint a deputy and keep him/her briefed on any relevant issues that he/she may be required to deal with in the absence of the Monitoring Officer.

2.2 Access to Information

The Monitoring Officer will:

- (i) be informed by Members and Officers of any issue(s) that may become of concern to the Authority, including, issues relating to legal powers, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise or have arisen;
- (ii) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Authority (including meetings at which Officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (iii) have the right to attend (including the right to be heard at) any meeting of the Authority (including meetings at which Officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (iv) have access to the Strategic Executive Board and receive advance notice of meetings, agenda and reports to those meetings, including the right to attend;
- (v) in carrying out investigation(s), have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his/her functions.

2.3 Relationships

The Monitoring Officer will:

- (i) ensure the other Statutory Officers (Head of Paid Service and the Section 151 Officer) 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 or have arisen;

- (ii) meet as frequently as necessary with the Chief Executive (Head of Paid Service) and the Strategic Director of Finance to consider and recommend action in connection with Corporate Governance issues and any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are of concern, that are likely to arise or have arisen;
- (iii) develop a close working relationship of respect and trust with the Leader, Cabinet Members and Standards Committee with a view to ensuring the effective and efficient conduct of Council business;
- (iv) develop an effective working relationship with Standards for England, the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- (v) in consultation, as necessary, with the Leader, Cabinet, Standards Committee and Standards for England, defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved.

2.4 Standards Matters

- (i) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by Standards for England) and, if appropriate, make a written report to the Standards Committee or to Standards for England if, in the opinion of the Monitoring Officer, there is a serious breach of the Members' Code of Conduct;
- (ii) be responsible, on behalf of the Standards Committee, for preparing any training programme for Members on ethical standards and Code of Conduct;
- (iii) carry out investigations into matters referred to him/her under the Council's whistle blowing policy in respect of Members and arrange the conduct of hearings into allegations of breaches of the Code of Conduct.

2.5 The Constitution

Review and monitor the Constitution in accordance with Article 15 of the Constitution. A team of Officers, reporting to the Monitoring Officer regularly reviews the workings of the Constitution, reporting changes as necessary to the General Purposes Committee.

3. MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above. Members and Officers will report any breaches of statutory duty, Council policies or procedures and other constitutional concerns to the Monitoring Officer, as soon as practicable, who will keep the reporting Members/Officers informed as appropriate.

4. ADVICE

The Monitoring Officer is available for Members and Officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Council Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc).

5. MONITORING THE PROTOCOL

The Standards Committee will consider an Annual Report included as part of the Overview of Ethical Standards and Related Matters Report from the Monitoring Officer, part of which will identify whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

6. SUMMARY OF FUNCTIONS (see table overleaf)

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Sections 5 and 5A, Local Government and Housing Act 1989
2	Report on any maladministration or injustice where the Ombudsman has carried out an investigation.	Sections 5 and 5A, Local Government and Housing Act 1989
3	Appointment of a Deputy.	Section 5, Local Government and Housing Act 1989
4	Report on the sufficiency of resources.	Section 5, Local Government and Housing Act 1989
5	Establish and maintain the Register of Members' interests, gifts and hospitality.	Section 81, Local Government Act 2000 and Members' Code of Conduct
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997
7	Maintain, monitor and review the Constitution.	Constitution – Articles 13.03 and 15
8	Support the Standards Committee and promote and maintain high standards of conduct.	Part III, Local Government Act 2000
9	Receive reports from Ethical Standards Officers and case tribunals.	Part III, Local Government Act 2000
10	Conduct investigations into misconduct.	Local Government Act 2000, Section 66
11	Consult with the Head of Paid Service and the Chief Finance Officer on issues of lawfulness and decision making.	Constitution – Articles 12.03 and 13
12	Proper Officer for Access to Information.	Constitution – Article 12.03
13	Advise whether executive decisions are within the budget and policy framework.	Constitution – Articles 12.03 and 13
14	Advise on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all Members.	Constitution – Article 12.03