



STANDARDS COMMITTEE - 23RD FEBRUARY 2017

SUBJECT: ADOPTION OF MONITORING OFFICER PROTOCOL

REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To ask the Standards Committee to comment and endorse the revised Monitoring Officer protocol as set out in Appendix 1 to this report prior to the presentation of the Protocol to Council for adoption.

2. SUMMARY

- 2.1 To endorse the revised Monitoring Officer Protocol as set out in Appendix 1.

3. LINKS TO STRATEGY

- 3.1 The designation of one of the Council's officers as the Monitoring Officer is a statutory requirement under the Local Government and Housing Act 1989.

The proposed Monitoring Officer Protocol will contribute to the Wellbeing goals within the Well-being of Future Generations Act (Wales) 2015 by ensuring that when undertaking its functions, the Council, acts in a matter which meets the present needs but without compromising the ability of future generations to meet their own needs and that when making decisions it take into account the impact those decisions against the following goals.

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales.

4. THE REPORT

- 4.1 Section 5 of the Local Government and Housing Act 1989 requires every principal authority to designate one of its officers as the Monitoring Officer.
- 4.2 The main functions of the Monitoring Officer are set out in Part 2 Article 12, paragraph 12.03 of the Council's Constitution which are reproduced below.

(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 the Ombudsman and decisions of the case tribunals.

(e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by the Ombudsman 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 decisions of the executive 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, financial impropriety, probity and budget and policy framework issues to all councillors.

(i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

- 4.3 The Lawyers in Local Government (LLG) have a sub group consisting of all the Monitoring officers of the principal councils in Wales, as well as the Fire and Rescue Authorities and National Parks. That sub group has developed a Monitoring Officer Protocol which is recommended for adoption by Council's across Wales. The Protocol is attached at Appendix 1, which incorporates changes to reflect local arrangements and will replace the existing Monitoring Officer Protocol which is currently in the Council's Constitution.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 The proposed draft Monitoring Officer Protocol contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act to ensure the highest standards of conduct and lawfulness and fairness in decision making which in turn will consider the positive and negative impacts on future generations, long term resilience, economic, environmental and social capital.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no equalities implications arising as a result of this report.

7. FINANCIAL IMPLICATIONS

7.1 There are no financial implications arising as a result of this report.

8. PERSONNEL IMPLICATIONS

8.1 There are no financial implications arising as a result of this report.

9. CONSULTATIONS

9.1 The Report reflects the views of the consultees.

10. RECOMMENDATIONS

10.1 The Standards Committee is asked to endorse the Monitoring Officer Protocol set out at Appendix 1 which will be presented to Council at the AGM for endorsement and authorisation for the Interim Head of Legal Services and Monitoring Officer to amend the Council's Constitution to include the revised Protocol.

11. REASONS FOR THE RECOMMENDATIONS

11.1 To provide clear guidance and understanding to members and officers as to the role of the Monitoring Officer.

12. STATUTORY POWER

12.1 Local Government and Housing Act 1989.

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Consultees: Gail Williams, Interim Head of Legal Services and Monitoring Officer
Nicole Scammell, Acting Director of Corporate Services and Section 151 Officer
Cllr Christine Forehead, Cabinet Member HR & Governance/Business Manager

Appendices:

Appendix 1 - Revised Monitoring Officer Protocol