

APPENDIX B – PART 5 (MONITORING OFFICER PROTOCOL)

Sheffield City Council – Constitution

Part 5 - Monitoring Officer Protocol (Amended ~~April 2015/Minor Amendments January 2017~~December/October 2017)

MONITORING OFFICER PROTOCOL

1. STATUTORY RESPONSIBILITIES

- 1.1 The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989 This Protocol sets out the Monitoring Officer's role in relating to the statutory duty to promote and maintain high standards of conduct under the Localism Act 20112.
- 1.2 The role of the Monitoring Officer rests with the Director of Legal and Governance. The Monitoring Officer may nominate a member of staff to act as Deputy Monitoring Officer while absent or ill and has appointed the Assistant Directors of Legal and Governance as Deputy Monitoring Officers. The Deputies will act only in the absence of the Monitoring Officer ~~if urgent action is required that cannot await his or her return~~.
- 1.3 This Protocol should be read in conjunction with Articles 12 and 15 of the Constitution which sets out all Monitoring Officer functions. It should also be read in conjunction with the procedure for investigating standards complaints. A summary list of the statutory functions of the Monitoring Officer ~~under the Act~~ appears in the attached Schedule.

2. WORKING ARRANGEMENTS

- 2.1 It is vital that Members and Officers work with the Monitoring Officer and his or her staff, to effectively discharge the Council business, statutory responsibilities and promote the corporate health of the Council.
 - 2.2 The Monitoring Officer's duties will be discharged in accordance with the Council's Constitution, legislative requirements and relevant Government guidance. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
 - (a) complying with the law (including any relevant Codes of Conduct);
 - (b) complying with any general guidance, codes or protocols issued from time to time by the Monitoring Officer;
 - (c) making lawful and proportionate decisions;
 - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute;
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- (e) seeking early advice on issues relating to constitutional or ethical matters;
- (f) raising alerts to issues that may become of concern to the Authority about legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise; and
- (g) Reporting to the Monitoring Officer at the earliest opportunity convictions of criminal offences which might amount to a breach of the Members Code of Conduct.

2.3 The Monitoring Officer will:

- 2.3.1 Have advance notice and access to information (including 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 meetings where there may be a failure to take a decision which should be taken);
- 2.3.2 Have the right to attend (and be heard) any meeting of the Authority (including meetings at which Officer delegated decisions are taken) before any binding decision is taken (including a meeting where there may be failure to take a decision where one should be taken).
- 2.3.3 Have advance notice of Executive Management Team meetings, agendas, reports and the right to attend and speak at those meetings. Meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with corporate Governance issues, matters of concern regarding legal, ethical standards probity, procedural, constitutional issues that are likely and do arise;
- 2.3.4 In undertaking or arranging investigations will have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of the functions.
- 2.3.5 Report to Council as necessary on resources.

3. RELATIONSHIPS

- 3.1 The Monitoring Officer will develop effective working liaison and relationship to ensuring effective and efficient discharge of Council business with:

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- (a) The Lord Mayor, Chairs of Cabinet, Scrutiny and Policy Development, Regulatory, Audit and Standards Committees of the Council; and
- (b) The District Auditor and the Local Government Ombudsman or their successors;

3.2 Refer any breaches to, or give and receive any relevant information, whether confidential or otherwise, (through appropriate protocols, if necessary), to the bodies in 3.1 (b).

4. PROCEDURE FOR DEALING WITH COMPLAINTS REGARDING CITY, PARISH AND TOWN COUNCILLORS AND CO-OPTED MEMBERS

4.1 ~~The role of the Monitoring Officer, or Deputy Monitoring Officer on the discharge of functions in relation to~~ The procedure for dealing with complaints that a member of the City Council, Parish and Town Councils ~~and or a~~ Co-opted Members ~~has~~^{ve} failed to comply with the Members' Code of Conduct is set out in Appendix A.

4.2 The Monitoring Officer reserves the right to deal with any issues arising in the course of business that concerns the conduct or alleged conduct of a Member in the absence of a complaint if the Monitoring Officer deems it reasonable and appropriate to do so.

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SCHEDULE

A summary list of the statutory functions of the Monitoring Officer

1. Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3. Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4. Report on resources	Section 5 Local Government and Housing Act 1989
5. Maintain register of Members Interests and gifts and hospitality	Localism Act 2011
6. <u>Receive reports of all whistleblowing allegations of misconduct to be responsible for the operation and maintenance of the whistleblowing policy</u>	Whistleblowing Policy and Procedure (in the Officers' Code of Conduct)
7. Proper Officer - <u>Local Government Access to information regulations</u>	<u>Part 2 of the</u> Constitution 12.03 (<u>fh</u>)
8. Advise on vires, maladministration, impropriety, probity	<u>Part 2 of the</u> Constitution 12.03 (<u>hj</u>)
9. Advise whether executive decisions are within policy framework	<u>Part 2 of the</u> Constitution 12.03 (<u>ig</u>)

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