

REPORT TO COUNCIL

Monitoring Officer's Annual Report 2014-15

Role of The Monitoring Officer

The law requires the County Council to designate one of its senior officers as the Monitoring Officer. I was appointed by the Council in February 2014 and commenced my duties on 1 April that year.

As the Monitoring Officer I maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by Councillors, Officers and the public.

One of my main duties as the Monitoring Officer is to ensure that the County Council acts and operates within the law. I advise on whether decisions of the Executive are in accordance with the Budget and Policy Framework. I have to report to the full Council or to the Executive if I consider that any proposal, decision or omission would give rise to unlawfulness. Such a report would have the effect of stopping the proposal or decision being implemented until the report has been considered.

I report to full Council where the Local Government Ombudsman issues a Public Report in respect of maladministration or a failure to provide services or a failure in any services provided, under section 31 of the Local Government Act 1974.

I also help promote and maintain high standards of conduct by Council members, officers, partners and contractors. When required I process complaints about alleged breaches of

the code of conduct in accordance with the local arrangements and work with the Audit Committee to deal with breaches and to achieve high standards.

The standards regime also requires that councillors register their disclosable pecuniary interests. I need to ensure that the register is being maintained and consider applications in relating to the granting of dispensations.

Proper Officer functions

I have a number of duties that do not necessarily result from the statutory functions of the Monitoring Officer but for which the person in that role is best placed to be the proper officer.

I 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.

I am the Senior Responsible Officer in respect of the Regulation of Investigatory Powers Act. I have to report on Covert Surveillance to the Council.

I am also the Responsible Officer for the Council's Whistle Blowing Policy (Confidential Reporting Code). I ensure that the Audit Committee receives an Annual Report from the Head of Corporate Audit.

REPORT FOR 2014-15

Constitution

A working party of members considered each part of the Constitution over the course of the year. The Council adopted changes over a number of meetings, with the final amendments resulting from the review being adopted at the December Council Meeting.

Statutory Monitoring Officer Reports

I am pleased to report that there were no occasions where I had reason to believe that there was a likelihood that the Council was about to take a decision that would be unlawful or give rise to maladministration. Consequently, I did not have to issue any report to the council under Section 5(2) of the Local Government and Housing Act (1989).

Judicial Review

There was a referral to the Court for a Judicial Review of the Executive's decision relating to the Library Service. The judgement was that the Council had not made the decision in a lawful way.

A number of actions were taken as a result including:

- The Council carried out an additional period of consultation on its proposals for the Library Service
- The Chief Executive commissioned an internal audit report into the decisions leading up to the judicial review. This has now reported to the Audit Committee, which has considered the response to the report from the Corporate Management Board.

The Council has received a pre-action protocol letter on behalf of a resident giving notice of intent to submit another application for Judicial Review into the decision taken by the Executive on 3rd February 2015. The Council intends to defend any such review if leave is given for a hearing.

Local Government Ombudsman's findings of maladministration

In 2014-15 there were 54 referrals to the Local Government Ombudsman. Of these:

- 26 were considered by the LGO to be premature or irrelevant to LCC;
- 18 no fault was found by the LGO
- 4 were on going
- 4 cases of maladministration were found.
- 2 draft decisions of maladministration that the Council has accepted as being at fault

There were also 5 decisions from the LGO in 2014-15 that had been referred in 2013-14:

- 3 decisions of fault or partial fault
- 2 no fault

Of the cases of maladministration, I am pleased to report that none resulted in a Public Report under section 31. Consequently, there is no obligation on me to report any results to full Council under the Act.

However, I set out in the box on the next page brief details of the decisions of maladministration published by the Ombudsman in 2014/15. The Ombudsman publishes all of its decision notices on its website in anonymised form whether or not a finding is made against the Council.

Standards

Councillors' Code of Conduct

In 2014-15 I have dealt with a number of informal and formal complaints that councillors had allegedly breached the Code of Conduct. In most cases I found that the complaint did not fall within the Code of Conduct scheme and were largely matters of perceived harassment and interpersonal relationships between councillors, which are matters for relevant Group Leaders to resolve.

No investigation reports were submitted to a Standards Panel of the Audit Committee for consideration.

Register of Councillors' disclosable pecuniary interests

All Councillors had made entries on their register of disclosable pecuniary interests. A number of councillors amended their entries during the year as their circumstances changed. I made an informal inspection of the register shortly after becoming the Monitoring Officer. It appeared that most entries were adequate but officers in democratic services asked for a little more detail in a few cases.

Register of Officers' Interests

An internal audit of Officers' Register of Interests has been carried out and as a result a number of recommendations made, which have been actioned by managers to ensure that officers are aware of their obligations in this respect and that the register is regularly reviewed.

PUBLISHED FINDINGS BY THE LOCAL GOVERNMENT OMBUDSMAN

- i. Ms A complained that the Council failed to properly protect and support her after it included information on her in a submission to a Court. The LGO found there to be no fault by the Council that led to injustice to Ms A, however the Council agreed with the LGO to make some changes to future practice in the investigation of statutory complaints.
- ii. Ms X complained that the Council unfairly charged Mr Y for care he did not receive between 2010 and 2012. The LGO found that the Council improperly overcharged for care which Mr Y failed to receive. The Council agreed to refund overpaid charges and apologise.
- iii. The complainants, Mr and Mrs C, said that the Council failed to properly assess their son's special educational needs. The LGO found that the Council failed to ensure that a young person was receiving necessary support in a post-16 education. The Council agreed to put this right and pay Mrs and Mrs C £200 for their time and trouble and a further £300 to their son..
- iv. Mr B complained that the Council delayed carrying out a review of his carer's assessment and then failed to pay the allowance quickly. The LGO found fault and the Council paid £250 by way of remedy as well as service improvement.
- v. Mrs Q complained about the Council's failure to increase her father's care services and about service problems. The LGO recommended that the council should acknowledge and apologise for the failures, which was accepted by the Council.
- vi. Miss C complained about the way the Council acted towards her while they were overseeing the contact arrangements with her mother. The LGO found fault in the way the Council carried out its responsibilities in safeguarding Miss C. The Council agreed to pay £500 each to of Miss C and her brother to remedy the stress caused by the delay in reviewing the contact arrangements.
- vii. Mr and Mrs J complained that the Council failed to support them properly when they were caring for their grandchildren. LGO found fault and made recommendations that are being considered.
- viii. Mrs B complained that the Council shared information prior to a child protection conference. The LGO's draft decision was that the Council was at fault and a proposed remedy of £200 has been agreed by the Council.
- ix. Mr C complained that the Council failed to provide him a remedy following an investigation and review into his complaints under the statutory children's services complaints procedure. The LGO's draft decision upholds some parts of the complaint and partially upheld other parts. The Council has already paid £500 by way of remedy and apologised for the injustice.

Regulation of Investigatory Powers Act (RIPA)

Statistics for 2014-15

Trading Standards were the only department to use covert surveillance during 2014-15. In total 8 operations were authorised:

- 6 directed surveillance operations;
- 2 Covert Human Intelligence Sources (CHIS) operations.

The Council was inspected by the Officer of the Surveillance Commissioner in January this year. The resulting recommendations are indicated in the box. I have accepted these on behalf of the Council and I am preparing an action plan to address them.

Whistleblowing

The administration of the Confidential Reporting policy is undertaken by Internal Audit. The last report was submitted to the Audit Committee in November 2014. The report for 2014-15 will be submitted in the autumn.

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OSC RECOMMENDATIONS (RIPA)

- Create a Central Record matrix in two parts, one to reflect *directed surveillance* and the other *CHIS*.
- Correct the existing *CHIS* forms and check all other forms in use to ensure they correspond to the current Home Office forms.
- The *SRO* and *RIPA Co-ordination Officer* should exercise more robust oversight on all authorisations and the authorisation process.
- Improve *RIPA* awareness throughout the Council.
- Consider reduction of the number of authorising officers and ensure all who may authorise are adequately trained.
- Ensure that a controller, handler and record keeper (who may be either controller or handler) is appointed to manage each *CHIS* and that risk assessments are undertaken in each such case.
- Establish a training programme and address the weaknesses disclosed in the documentary examination by further training.
- Amend the Corporate Policy and Procedures Document on *RIPA*.