

REPORT TO COUNCIL

Monitoring Officer's Annual Report 2015-16

Role of the Monitoring Officer

The law requires the County Council to designate one of its senior officers as the Monitoring Officer. I have been in this post since 1 April 2014.

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. Although I am not a solicitor myself, I have access to qualified lawyers in Legal Services Lincolnshire. 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 2015-16

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 Judgements

The Council was challenged by a Claimant about the Council's Library service plans for a second time at a Judicial Review in July 2015. The Court considered the Claimant's arguments but these were dismissed by the Court.

Local Government Ombudsman's findings of maladministration

In 2015-16 there were 54 referrals to the Local Government Ombudsman. Of these:

- 21 were considered by the LGO to be premature or not relevant to LCC;
- 11 no fault was found by the LGO
- 11 were on going
- 9 cases of maladministration were found
- 2 needed no further action (NFA)

There were also 4 decisions from the LGO in 2015-16 that had been referred in 2014-15:

- 3 of these were now closed
- 1 was considered by the LGO to be premature and needed no further action (NFA).

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 2015/16. 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 2015-16 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. The number of complaints of perceived harassment and poor interpersonal relationships between councillors, which are matters for relevant Group Leaders to resolve, has diminished. One could speculate that this may be the result of adding the criterion of "Respect" to the Council's Code of Conduct. The new Chief Whip, Cllr Jackie Brockway, is also trying to resolve more matters informally.

One investigation report was submitted to a Standards Panel of the Audit Committee for consideration, which found that a breach of the Code had occurred but that it was of a nature that any sanctions should be left for the relevant group leader to determine.

The Council appoints Independent persons to assist it in determining any outcomes of an investigation. The Council had been well served by Clive Mason and he had helped in the recruitment of an additional person for the role. It was very sad that he died suddenly shortly before the appointments were made. The new Independent Persons are Alan Pickering and Chris Riley.

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.

PUBLISHED FINDINGS BY THE LOCAL GOVERNMENT OMBUDSMAN

i The complainant, Mrs X (on behalf of her late mother – Mrs Y) complained that her mother's jewellery disappeared whilst she was placed in a care home. The LGO found the Council to be at fault in the way its contracted care provider dealt with Mrs Y's valuable possessions. The Council was required to pay £500 to Mrs Y's estate for the financial loss experienced.

ii Mr A (on behalf of his late father – Mr X) complained about the way that the Council's Independent Living Team managed his late father's care. The LGO found fault in that there should have been a review of Mr X's re-ablement care but did not consider the injustice to be sufficient to warrant a financial remedy.

iii Mr C complained that the Council incorrectly charged him for eight days temporary stay in a nursing. The LGO found that the Council should not have asked for a contribution from Mr C as he was ready to go home and had to wait for his assessment and a suitable care package to be put in place. The Council was required to pay Mr C £100 as reimbursement.

iv Mr and Mrs X complained that the Council was wrongly charging their son for activities that they considered to be part of his agreed care plan. The LGO found evidence of fault by the Council in how it informed Mr and Mrs X about the charges resulting in Mrs X's son incurring charges that were not anticipated. The LGO required the Council to consider refunding charges incurred for the period from the son moving into the current placement to the date the LGO decision was issued. The Council agreed this action and is currently considering the refund which is expected to total circa £5,000. The Ombudsman did not find fault in the Council's rationale for applying the charges, only the way in which that information was communicated.

v Mrs C complained that, following a financial assessment to determine her husband's contribution towards his care home fees, the Council has not left her with enough funds to cover her expenses. The LGO found fault in the assessment but as the Council reviewed its position during the course of the investigation it did not require any further action or compensation.

vi Mr and Mrs J complained that the Council failed to support them properly when they were caring for their grandchildren after their mother's arrest. The LGO found the Council was at fault by failing to support grandparents as kinship carers for their grandchildren. The LGO required the Council to pay a retrospective foster carers' allowance to the complainants amounting to £8,311.98.

vii Miss C together with her brother complained about the way Lincolnshire County Council acted towards them while they were overseeing the contact arrangements with her mother whilst she was on police bail, particularly that the social worker did not consider her wishes and kept the supervision arrangements in place for too long. The LGO found fault in the Council's actions and required the Council to pay £500 each to Miss C and her brother to remedy the distress caused.

viii Mrs B complained that there was fault in the way the Council acted following an allegation against her husband. The LGO found fault in the way the Council shared information with Mrs B in advance of child protection conferences and required the Council to pay Mrs B £200 in recognition of the time, trouble and distress caused.

ix Mrs D complained about the care received by her late mother (Mrs B). Additionally Mrs D complained about the Safeguarding Investigation carried out by Lincolnshire County Council following an allegation of neglect by the care home. The LGO found that the Council investigated the safeguarding complaint adequately but did not record the outcome correctly resulting in a fault. There was no evidence of fault in the other aspects of the complaint concerning the handover from the Hospital Trust to a Nursing Home nor the decision to arrange a placement there.

Register of Officers' Interests

Managers continue to ensure that officers are aware of their obligations in respect of the Register of Officers' Interests. The register is maintained by the Democratic Services team and is regularly reviewed.

Regulation of Investigatory Powers Act (RIPA)

Statistics for 2015-16

Trading Standards were the only department to use covert surveillance during 2015-16. In total 11 operations were authorised:

- 4 directed surveillance operations;
- 7 Covert Human Intelligence Sources (CHIS) operations.

The Council was inspected by the Officer of the Surveillance Commissioner in January 2015. The resulting recommendations were accepted on behalf of the Council and an action plan to address them was prepared.

Whistleblowing

The administration of the Confidential Reporting Policy is undertaken by Internal Audit. The last report was submitted to the Audit Committee in January 2016 covering whistleblowing activity in the year 2014/15.

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ACTIONS ON OSC RECOMMENDATIONS (RIPA)

- i A Central Record matrix in two parts has been completed. One to reflect *directed surveillance*; and the other *CHIS*.
- ii The existing *CHIS* forms have been corrected and links to the Home Office forms have been added to the policy so the correct versions are now available and in use.
- iii The *SRO* and *RIPA Co-ordination Officer* are exercising more robust oversight on all authorisations and the authorisation process and frequent meetings are being undertaken/planned.
- iv There are plans to utilise Lincs to Learn to improve RIPA awareness throughout the Council.
- v The number of authorising officers has been reduced and all officers who may authorise have been adequately trained.
- vi A controller, handler and record keeper (who may be either controller or handler) has been appointed for each authorisation to manage each *CHIS* and ensure that risk assessments are undertaken in each such case.
- vii Training is ongoing within Trading Standards and an update for all staff is planned when amendments to legislation regarding comms data is introduced.
- vii The Corporate Policy and Procedures Document on *RIPA* has been amended

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