

# Audit Committee

<b>Report title:</b>	<b>Monitoring Officer's Annual Report 2018/19</b>
<b>Date of meeting:</b>	<b>18 April 2019</b>
<b>Responsible Chief Officer:</b>	<b>Chief Legal Officer</b>
<b>Strategic impact</b>  The Audit Committee considers matters of Governance in accordance with its terms of reference, which are part of the <a href="#">Council's Constitution, part 4.1 (4.4)</a> . (page 11).	
<b>Executive Summary</b>  The Monitoring Officer's Annual Report summarises the internal governance work carried out by the Monitoring Officer and Deputy Monitoring Officer in 2018/9 and provides assurance that the organisation's control environment, in the areas which are the responsibility of the Monitoring Officer, is adequate and effective. This annual report supports the assurance statements included in the draft Annual Governance Statement for 2018/19 (the "Annual Governance Statement").  The key messages in the Monitoring Officer's report include: <ul style="list-style-type: none"><li>• that there have been no 'reportable incidents' during the period 2018/19;</li><li>• that the systems of internal control administered by the Monitoring Officer were adequate and effective during 2018/19 for the purposes of the latest regulations;</li><li>• that there were no findings of breach of the Council's Code of Conduct during 2018/19.</li></ul>	
<b>Recommendation</b>  The Audit Committee is requested to consider and agree the contents of the report and in particular the key messages in the above Executive Summary and <b>Appendix A</b> section 2.1.	

## 1 Proposal

1.1 The proposal is shown at the Executive Summary above.

## **2 Evidence**

- 2.1 The Monitoring Officer's Annual Report for 2018-19 is presented at **Appendix A.**

## **3 Financial Implications**

There are no specific financial implications to report.

## **4 Issues, risks and innovation**

### **Section 17 Crime and Disorder Act 1998**

- 4.1 Under section 17 of the Crime and Disorder Act 1998 the Council has a statutory general duty to take account of the crime and disorder implications of all of its work and do all that it reasonably can to prevent crime and disorder in Norfolk.
- 4.2 The Monitoring Officer's work helps to deter crime, and/or make crime difficult, increasing the likelihood of detection and prosecution and thereby disincentivising crime.

## **5 Background**

- 5.1 Officers have considered all the implications which Members should be aware of. Apart from those listed in the report, there are no other implications to take into account.

## **Officer Contact**

If you have any questions about matters contained in this paper please get in touch with:

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## **Monitoring Officer's Annual Report 2018/19**

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## **1. Introduction**

- 1.1 The Monitoring Officer's Annual Report summarises the more significant activities of the Monitoring Officer and Deputy Monitoring Officer in 2018/19 and comments on other current issues relevant to the Monitoring Officer's work for the County Council.
- 1.2 Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the fundamental principles of openness, integrity and accountability together with the overarching concept of leadership. In this respect, Norfolk County Council recognises the need for sound corporate governance arrangements and over the years has put in place policies, systems and procedures designed to achieve this. The Council's Code of Corporate Governance has been refreshed in line with CIPFA's latest guidance and was approved by the Policy and Resources Committee on 26 March 2018. The Code brings together the Council's Governance and Standards in one place and supports the Council's Constitution. The Code is referenced in the Council's Annual Governance Statement, which is published each year and subject to external audit scrutiny.
- 1.3 The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989 and has a number of statutory functions in addition to those more recently conferred under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 and subsequent regulations governing local investigations into member conduct. The current standards regime came into effect with the introduction of the Localism Act in 2011 and subsequent implementing regulations that came into force during 2012/13.

## **2. Key messages**

- 2.1 The key messages to note from the year are:
  - There have been no 'reportable incidents' during the period 2018/19.
  - That the systems of internal control administered by the Monitoring Officer and Deputy Monitoring Officer including compliance with the Code of Corporate Governance and the Council's Constitution were adequate and effective during 2018/19 for the purposes of the latest regulations.
  - The Council has arrangements in place to ensure compliance with relevant laws and regulations, internal policies and procedures and that expenditure is lawful.
  - The County Council publishes on its website a summary of Members' declared interests, all the authority's expenditure over £500 and the expenses of Chief Officers.
  - The Council is proactive in raising the standards of ethical conduct among members and staff, including the provision of ethics training and has put in place arrangements for monitoring compliance with standards of conduct across the Council including:
    - Standards of conduct and behaviour for officers

- Code of Conduct for Members
  - Register of Disclosable Pecuniary Interests
  - Register of gifts and hospitality
  - Complaints procedure
- Following the May 2017 elections and subsequent byelections all Members completed a declaration of Disclosable Pecuniary Interests. These updates were loaded onto the website.
  - Following the May 2017 elections training on the Code of Conduct and registration and declaration of interests was made available to all Members.
  - The Council can demonstrate that generally Members and staff exhibit high standards of personal conduct. During 2018/19 the number of standards complaints was low (as it was in 2017/18) and no hearings of the Standards Committee were required.
  - Members and staff are aware of the need to make appropriate disclosures of gifts, hospitality and pecuniary interests. There is evidence that members and staff are making appropriate disclosures in the registers.
  - In accordance with the Anti-Fraud, Bribery and Corruption Annual Activity Plan 2017-18 (1 October 2017 - 31 March 2018 Period) approved by the Audit Committee on 21 September 2017, an audit of arrangements for the Declarations of Interest for staff was conducted and reported to the Council's Leadership Team in May 2018.
  - The audit did not disclose any actual or indication of any wrongdoing. However, sufficient assurance could not be gained that robust processes are in place to ensure that all potential conflicts of interests are declared, recorded and monitored to ensure that NCC can demonstrate openness and transparency about situations where conflicts arise or may have arisen.
  - The audit revealed that some departments had positive and robust processes in place for declaring, recording and monitoring potential conflicts of interest but a more systematic approach to eliciting and monitoring this information is recommended. Consequently, a working group has been established by the Deputy Monitoring Officer with representatives from each Directorate and Norfolk Audit Services take forward the recommendations of the audit report, in particular to raise awareness of the NCC Standards of Conduct and Behaviour Policy which requires staff to declare potential conflicts of interest, promote the consistent recording of potential conflicts of interests and the ongoing monitoring of these. The working group has met and agreed a plan of action which should have completed by 31 November 2018. However, implementation has this has been delayed due to other work pressures on the Deputy Monitoring Officer. Work will resume imminently and should complete by 31 May 2019.
  - The Audit Committee receives an annual update on the Council's counter fraud and corruption policy applying to all aspects of the Council's business. There

are effective arrangements for receiving and acting upon fraud and corruption concerns and disclosures from members of the public.

- The Council has arrangements in place to receive and investigate allegations of breaches of proper standards of financial conduct and fraud and corruption.
- The County Council's Anti-Fraud and Corruption Operational Strategy was updated to reflect changes in law and practice and was approved by the Audit Committee in September 2017.
- There is a whistleblowing policy which is publicised and demonstrates the Council's commitment to providing support to whistle-blowers and has been communicated to staff and those parties contracting with the council. The Council can demonstrate its staff, and staff within contracting organisations, have confidence in the whistleblowing arrangements and feel safe to make a disclosure.
- nplaw, the legal service for the County Council, achieved reaccreditation of the Law Society's Lexcel quality standard in April 2019 and has arrangements in place to ensure the quality of the service provided.
- Money laundering requirements as stipulated in the Money Laundering Regulations 2007 and the Proceeds of Crime Act 2002 are fully met.

### **3. Results of the Monitoring Officer/ Deputy Monitoring Officer's work in 2018/19**

- 3.1 In order to ensure the effective undertaking of her responsibilities, the Monitoring Officer has a number of duties which are set out in the table below:-

<b>DUTIES</b>	<b>EXAMPLES</b>
Has regular meetings with each of the previous Managing Director, Head of Paid Service, Executive Director for Finance and Commercial Services and Head of Democratic Services in order to review current and likely future issues with legal, constitutional or ethical implications.	The Council in 2017 indicated a wish to move to an Executive Leader and Cabinet form of governance as soon as possible. In December 2018, it made the decision to move to an Executive Leader and Cabinet form of governance from May 2019. In preparation for this, a new draft constitution has been produced with a working group of members and supported by the former Managing Director, the Head of Paid Service, Monitoring Officer, Deputy Monitoring Officer, Head of Democratic Services, Executive Director of Strategy and Governance as well as the Head of HR. A new draft constitution was agreed by the Council's P&R Committee on 25 March for recommendation to Full Council on 15 April 2019.

Maintains good liaison and working relations with the External Auditor.	Key issues for the External Auditor are raised through correspondence and meetings as necessary with the External Auditor and through the Executive Director for Finance and Commercial Services. The External Auditor is notified and contacted if reportable incidents arise.
Ensures that the County Council is kept up to date on new legislation and changes in the law which are relevant to the carrying out of the County Council's activities.	This generally takes the form of reports to Members and briefing notes to Executive Directors but where appropriate will involve training sessions for relevant Members and Officers. These activities are carried out in consultation and conjunction with relevant Executive Directors. A review has been conducted as part of the drafting of the new Constitution and the intent is to further review the Constitution in the months following implementation to ensure the business of the Council is conducted effectively and within the law.
The Monitoring Officer or one of their senior staff is consulted at an early stage on new policy proposals and on matters, which have potentially significant legal implications.	The Monitoring Officer and staff in the Chief Legal Officer's (CLO) department are regularly consulted by Executive Directors on new policy proposals. The Monitoring Officer is now a member of the Shadow Corporate Board which forms a part of the Member oversight arrangements in the Council. The Shadow Corporate Board will if the Council adopt the new Constitution on 15 April become a substantive Board to operate from 7 May 2019. The Monitoring Officer's place on Corporate Board although welcome, it is complementary to the expectations on Executive Directors and the Head of Paid Service to involve the legal function early in decision making on significant projects and new policy proposals to ensure the Council acts lawfully.
All draft reports to the Service Committees are as a matter of routine cleared with the Monitoring Officer or CLO department senior staff.	Significant reports for decision were routinely forwarded to the Monitoring Officer and/or the CLO department senior staff by service departments and were reviewed for their legal and ethical implications.

<p>The Monitoring Officer has been informed of all emerging issues of concern of a legal, ethical or constitutional nature.</p> <p>Similarly, Members have ensured that the Monitoring Officer is routinely informed and consulted in respect of new policy proposals.</p>	<p>Executive Directors are aware that they should consult the Monitoring Officer on legal, ethical or constitutional matters and do so as the issues arise.</p> <p>Members can rely on the fact that significant reports for decision are routinely reviewed by the Monitoring Officer or senior staff in the CLO's department, prior to their presentation at Committees under the current governance arrangements and will continue to be the case under the new arrangements from 7 May 2019.</p>
<p>The Monitoring Officer has sought to resolve any potential illegality by identifying alternative and legitimate means of achieving the objective of the proposal.</p>	<p>The Monitoring Officer, in their capacity as Chief Legal Officer, and the senior staff in the CLO department regularly advise on the legality and/or appropriateness of administrative procedures.</p>
<p>In cases where external lawyers are acting for the County Council, it will be necessary for the relevant Chief Officer and the Monitoring Officer to agree arrangements for ensuring that vires and constitutional issues are satisfactorily addressed.</p>	<p>No exceptions were raised during the period.</p>
<p>In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer will be entitled to add their written advice to the report of any other County Council Officer.</p>	<p>There have been no such incidents during 2018/19.</p>
<p>Where the Monitoring Officer receives a complaint of a potential reportable incident, they must in appropriate cases seek to resolve the matter amicably, by securing that any illegality or failure of process is rectified. However, it is recognised that the Monitoring Officer may decide that the matter is of such importance that a statutory report is the only appropriate response.</p>	<p>There have been no incidents requiring a statutory report during 2018/19.</p>

#### **4. Review of effectiveness of systems of internal audit**

- 4.1 Regulation 7 of the Accounts and Audit Regulations 2015 requires the Council to review annually the effectiveness of its system of internal audit. There is currently no guidance or good practice available for meeting this requirement. Informal advice from CIPFA and discussions with other local authorities provided various options for reviewing the effectiveness of the system of internal audit.



- 4.2 The elements of the Council's systems of internal audit and the assurance on their effectiveness include corporate control functions such as legal services. As endorsed by the Audit Committee on 24 April 2007, the option chosen is for the Audit Committee to review information on the effectiveness of the management processes and corporate control functions (legal, financial, health and safety and human resources services performed) as provided by self-assessment, customer feedback and any existing external performance reviews.
- 4.3 nplaw's work was re-accredited by Lexcel, the Law Society's quality standard for all legal practices, in April 2019 and was commended for some good practice areas.

## **5. Governance Statement**

- 5.1 In addition to the Council's own governance the Monitoring Officer provides legal advice as required to the following joint committees:
- Norfolk Records Committee
  - Norfolk Joint Museums and Archaeology Committee
  - Eastern Shires Purchasing Organisation (ESPO)
  - Norwich Highways Agency Committee
  - Eastern Inshore Fisheries and Conservation Authority; and
  - Norfolk Parking Partnership Joint Committee.
- 5.2 The Council and each Joint Committee (where required to do so) publishes its own Annual Governance Statement.
- 5.3 In addition the Monitoring Officer provides legal advice to the Pension Funds administered by the Council and in some areas, to the Council's wholly owned companies.

## **6. Section 17 Crime and Disorder Act 1998**

- 6.1 Under section 17 of the Crime and Disorder Act 1998 the Council has a statutory general duty to take account of the crime and disorder implications of all of its work, and do all that it reasonably can to prevent crime and disorder in Norfolk.
- 6.2 The Monitoring Officer's work helps deter crime, or increase the likelihood of detection through making crime difficult, increasing the risks of detection and prosecution and reducing the rewards from crime.

**7. Overall opinion on the adequacy and effectiveness of the Governance framework**

- 7.1 That the systems of internal control administered by the Monitoring Officer including the Code of Corporate Governance and the Council's Constitution, were adequate and effective during 2018/19 for the purposes of the latest regulations.

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