

Monitoring Officer
Annual Report 2023-24
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Monitoring Officer Annual Report 2023-24

1. Introduction

- 1.1 The Monitoring Officer's Annual Report summarises the more important matters arising from the Monitoring Officer's work for the Council from 1 April 2023 to 31 March 2024 and comments on other current issues.
- 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, Cambridgeshire County Council recognises the need for sound corporate governance arrangements and has put in place policies, systems and procedures designed to achieve this.
- 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 conferred under the Local Government Act 2000 and subsequent regulations governing local investigations into Member conduct. These are outlined in the next section of the report.

2. The Monitoring Officer's Work April 2023 – March 2024

- 2.1 Emma Duncan (Service Director: Legal and Governance) has carried out the statutory functions since 27 March 2023.
- 2.2 The three statutory officers (The Head of Paid Service, the S151 Officer and the Monitoring Officer), often called the "golden triangle" have specific roles within the organisation and responsibility, with other officers and with senior members. The Statutory Officers form the Statutory Officers Group that meets regularly and provides advice to the authority as a whole on the governance framework and monitors the Annual Governance Statement Action Plan.
- 2.3 Good governance is a critical part of engendering trust with communities and importantly reduces the risk of organisational failures.
- 2.4 Significant progress has been made in the recent past to strengthen the governance framework, and is supported particularly by the assurance functions of the Council (Democratic Services, Internal Audit and Information Governance) being within oversight of the Monitoring Officer.
- 2.5 Work continues to engender a robust culture of good governance throughout the officer and Member cohorts. These behavioural issues are now acknowledged as the key factor in building a robust governance framework.
- 2.6 Following recent high profile governance failures in local government, the Centre for Governance and Scrutiny (CfGS) undertook a research piece to

produce a new [Governance Risk and Resilience Framework](#), which identifies behaviours that support a healthy governance environment and the work behind the Annual Governance Statement and the CIPFA principles in [“Delivering Good Governance”](#).

2.7 The behaviours are as follows:

- **Extent of recognition of individual and collective responsibility for good governance.** This is about ownership of governance and its associated systems;
- **Awareness of political dynamics.** This is about the understanding of the unique role that politics plays in local governance and local government. Positive behaviour here recognises the need for the tension and “grit” in the system that local politics brings, and its positive impact on making decision-making more robust;
- **How the council looks to the future to set its decision-making priorities.** This is about future planning, and insight into what the future might hold for the area, or for the council as an institution and includes the way the council thinks about risk;
- **Officer and councillor roles.** Particularly at the top level, this is about clear mutual roles in support of robust and effective decision-making and oversight. It also links to communication between key individuals, and circumstances where ownership means that everyone has a clear sense of where accountability and responsibility lie;
- **How the council’s real situation compares to its sense of itself.** This is about internal candour and reflection; the need to face up to unpleasant realities and to listen to dissenting voices. The idea of a council turning its back on things “not invented here” may be evidence of poor behaviours, but equally a focus on new initiatives and “innovation” as a way to distract attention, and to procrastinate, may also be present;
- **Quality of local (external) relationships.** This is about the council’s ability to integrate an understanding of partnership working and partnership needs in its governance arrangements, and about a similar integration of an understanding of the local community and its needs. It is about the extent to which power and information is shared and different perspectives brought into the decision-making, and oversight, process;
- **The state of member oversight through scrutiny and audit committees.** This is about scrutiny by councillors, and supervision and accountability overall.

2.8 The governance framework of the Council has been assessed against these key areas by the Statutory Governance Officers and the Action Plan for the annual governance statement is partly derived from this work, together with the CIPFA Guidance. This means the governance framework is actively managed through a risk-based model.

3. The Monitoring Officer duties (Section 5A Local Government and Housing Act 1989, Constitution Articles 11, 14, Part 3B and Contract Procurement Rules)

Reference	Duties	Work undertaken
<p>Article 11 (a) and Article 14</p>	<p>Maintaining the Constitution</p> <p>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.</p>	<p>A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended.</p> <p>To achieve this the Monitoring Officer has:</p> <ul style="list-style-type: none"> • observed meetings of different parts of the Member and Officer structure; • undertaken an audit trail of a sample of decisions; • recorded and analysed issues raised with her by Members, Officers, the public and other relevant stakeholders; and • compared practices in this Council with those in other comparable authorities, or national examples of best practice. <p>The Constitution and Ethics Committee has met to consider amendments to the Constitution regularly during the year including the revisions to the Constitution as a result of the Centre for Governance and Scrutiny Report.</p> <p>During the year, the Constitution has been updated a number of times to reflect best practice and provide clarification with the principles that are</p>

		<p>articulated within the Constitution with oversight from the Committee and the Working Group. This has included consideration of updates and changes to the Contract Procurement Rules, the Budget Debate and Motions.</p>
<p>Article 11 (b)</p>	<p>Ensuring Lawfulness and Fairness of Decision-Making</p> <p>After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Council if they consider 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.</p>	<p>The Statutory Officers Group (Head of Paid Service, Section 151 Officer and the Monitoring Officer) meet regularly to discuss any issues that arise.</p> <p>This year much of the Monitoring Officer work has been to introduce a new report process to ensure that there is oversight of all decision made.</p> <p>All decisions are now tracked through the Corporate Clearance Group (CEX, MO, S151) that meet regularly to monitor reports coming forward. All have mandatory finance, legal and equalities sign offs.</p> <p>A new report writing guide and template and have been produced and circulated.</p> <p>Work has also been done to strengthen Officer Delegated Decisions so that these are tracked and monitored as well as published.</p>
<p>Article 11 (c)</p>	<p>Providing Advice</p> <p>To act as the solicitor to the Council and in consultation with the Head of Paid Service and the Section 151 Officer, to provide advice on the scope of powers and authority for the Council to take decisions, maladministration, probity and</p>	<p>The Monitoring Officer regularly advises officers and Members on issues of lawfulness including seeking external legal opinion where necessary.</p> <p>New decision making guidance has been issued to officers.</p> <p>All reports receive legal advice or confirmation that none is needed.</p> <p>The Monitoring Officer also sits on Corporate Leadership Team and through the new report assurance</p>

	governance issues, to all councillors and to support and advise councillors and officers in their respective roles.	process is able to have early sight of proposed decisions.
Article 11 (d)	<p>Supporting the Constitution and Ethics Committee.</p> <p>The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution and Ethics Committee. This will include making arrangements for the hearing of allegations against members concerning breaches of the Code of Conduct.</p> <p>The Monitoring Officer shall also support the Constitution and Ethics Committee in ensuring the Council's Constitution is fit for purpose and in this role, shall keep it under review and make recommendations as to how it might be amended to better achieve the purposes set out in Article 1 or in response to changes in law.</p>	<p>The Constitution and Ethics Committee has met on four occasions during the year and has considered the following;</p> <ul style="list-style-type: none"> • Revisions to the Constitution • Updates on Member Standard Complaints • Independent Persons • Violence and Intimidation of Members <p>This means that the Constitution is kept under constant review and updated as issues arise.</p> <p>This year, following a survey of users, the Committee will be considering a wholesale review of the Constitution led by the working group to make it more understandable and easier to navigate.</p>

<p>Article 11 (e)</p>	<p>Conducting Assessments.</p> <p>In the case of allegations that a councillor has breached the Members' Code of Conduct, the Monitoring Officer and the Council's Independent Person shall conduct an initial assessment of complaint and make a decision as to whether the complaint warrants investigation or any other action.</p>	<p>This municipal year, the Monitoring Officer has received and assessed 36 complaints under the Council's assessment framework in conjunction with the Council's independent person. In most cases the assessment indicated that the threshold had not been met for an investigation.</p> <p>The average time to deal with a complaint from receipt to assessment was 30 days.</p> <p>Complaints are reported to the Constitution and Ethics Committee on a regular basis.</p>
<p>Article 11 (f)</p>	<p>Conducting Investigations.</p> <p>Where allegations of breaches of the Members' Code of Conduct are referred for investigation, the Monitoring Officer shall make arrangements for the conduct of such investigations and report the findings to the Constitution and Ethics Committee.</p>	<p>This year two matters have been referred for investigation.</p>
<p>Article 11 (g)</p>	<p>Proper Officer for Access to Information.</p> <p>The Monitoring Officer shall ensure that decisions of the Council and its committees, together with the reasons for those decisions, and</p>	<p>Agendas have been issued 100% on time. Since the introduction of the Corporate Clearance process, late reports and exempt items receive scrutiny to ensure that the Access to Information provisions are being complied with.</p>

	<p>relevant officer reports and background papers are made publicly available as soon as possible.</p>	
<p>Article 11 (h)</p>	<p>Advising whether Decisions are within the Budget and Policy Framework</p> <p>The Monitoring Officer will advise whether decisions of the Council and its committees are in accordance with the Budget and Policy Framework.</p>	<p>The Monitoring Officer checks all reports to ensure that they are compliant with the Budget and Policy Framework.</p>
<p>Article 11 (j)</p>	<p>Qualified Person</p> <p>The Monitoring Officer shall determine whether information should be exempt from disclosure under the provisions of Section 36 of the Freedom of Information Act 2000.</p>	<p>Two qualified persons opinions have been given this year.</p>
<p>Part 3 B</p>	<p>To grant any dispensations to Members</p>	<p>This year all Members were granted an exemption to participate in the Members' Allowances Indexation debate.</p>
<p>Contract Procedure Rules</p>	<p>To report any breaches of procurement rules</p>	<p>This year there has been a focus on addressing compliance with the procurement rules and a new process has been introduced for dealing with breaches of the procurement rules. The reporting will now also be to Accounts and Audit Committee and with effect from April 2024 will be on a quarterly basis.</p>

S5(A) Local Governme nt and Housing Act 1989	The Monitoring Officer has a statutory duty to report to Council Ombudsman decisions where there is maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974	See Appendix 1
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4. Key Messages

4.1 The key messages to note from the year are:

- (i) The systems of internal control administered by the Monitoring Officer including compliance with the Council's Constitution were adequate and effective during the period for the purposes of the latest Regulations at a minimum level.
- (ii) The Constitution continues to be regularly updated.
- (iii) Whilst there are no significant systems of governance control absent, compliance needs to continue to be addressed. Delegated authority and procurement are areas that have been addressed and will continue to be addressed in the forthcoming year.
- (iv) Sustained progress has been made on strengthening compliance through the introduction of the Statutory Officer Group, the Corporate Clearance Process, a new report writing template and guidance on decision making.
- (v) The Code of Conduct process is operating effectively and issues with poor member behaviour are not persistent or widespread.

5. Looking Forward

The key issues for 2024/25 are as follows:

5.1 Code of Conduct

- 5.1.1 The current Cambridgeshire Code of Conduct is not the Local Government Association model code. These means that in a complex system, Members of

elected bodies (parishes, Districts, Cambridgeshire and Peterborough Combined Authority (CPCA) and the County Council) could be subject to four different codes. Both the CPCA and East Cambridgeshire District Council have introduced the LGA model Code. Furthermore, the LGA Code is supported by a comprehensive suite of guidance and training materials which support Members more effectively than is the case at the moment. Now is an opportune time, in advance of the next election for the County to review the position.

5.2 Corporate Governance Framework

- 5.2.1 The Council will keep the Code of Corporate Governance under review, and will undertake work with Members and officers on the CfGS risk and resilience framework to strengthen the position.
- 5.2.2 The Monitoring Officer will continue to provide an assurance in respect of the Code and the Annual Governance Statement by way of this Annual Report.

5.3 Constitution and Regulations

- 5.3.1 The Constitution will continue to be kept under review by the Monitoring Officer working closely with the Democratic Services Team and a full review of the Constitution is underway.
- 5.3.2 It will be appropriate to continue to remind Members and staff of the importance of compliance with the Council's regulations, as set out in the Constitution and other policy framework documents, and the Monitoring Officer and other staff will give advice accordingly.
- 5.3.3 The focus this year will be to strengthen understanding and compliance with officer delegated decision making and procurement waivers.

6. Overall opinion on the adequacy and effectiveness of the Governance framework

- 6.1 That the systems of internal control administered by the Monitoring Officer including the Code of Conduct and the Council's Constitution, were adequate and effective during the year between April 2023 and March 2024 for the purposes of the latest regulations (subject to the areas outlined above).

Emma Duncan
Monitoring Officer

22/03/24

Appendix 1 Ombudsman Adverse Findings

Service	Complaint	Agreed Remedy
Children, Education and Families	Miss X complained the Council failed to provide her child, with transport to nursery and failed to provide the provision in his Education, Health and Care Plan. The Council acknowledges it is at fault for failing to provide transport and that Y has missed out on provision.	<p>Pay Miss X an amount of £4,800. This is a symbolic payment to acknowledge the loss of educational provision that the Council should have delivered and the impact this has had on Y. Recommend Miss X uses this payment for the benefit of Y's education.</p> <p>Pay Miss X an additional amount of £500 to acknowledge the loss of opportunity, distress and impact on Miss X and her family.</p> <p>The Council has also agreed that within two months of this final decision, it will explain what it will to do to ensure sufficient processes are in place to reduce the risk of provision not being delivered.</p>
Children, Education and Families	Ms E complained about an independent investigation report commissioned by a Council about the care of her son. Fault was found with some aspects of the investigation in relation to communication issues between the family and her son's carers.	By 17 April 2024, the Council writes to Ms E acknowledging and apologising for the uncertainty and distress caused to Ms E by these faults in the investigation.
Children, Education and Families	Ms Z complained the Council failed to provide her daughter with suitable education since September 2021. Ms Z also complained about delays in issuing Education Health Care (EHC) Plans and the	<p>Within one month of the Ombudsman's final decision the Council should:</p> <p>Provide an apology and pay Ms Z £500 to remedy the injustice caused by the eight-month delay</p>

	<p>content of the EHC Plans. Fault was found with the Council failing to provide suitable education for Ms Z's daughter for nearly a full academic year.</p>	<p>issuing Y's final amended EHC plan within statutory timeframes.</p> <p>Pay Ms Z £5,000 to address the Council's failure to provide suitable alternative provision of education for her daughter. Ms Z may use this as she sees fit for her daughter's educational needs</p>
<p>Children, Education and Families</p>	<p>Mrs B complained the Council failed to provide the provision in her son's EHC Plan. Mrs B also complained the Council delayed in reviewing her son's EHC Plan and, when it did complete the review, failed to complete the review process correctly. Fault was found with the Council for delays in reviewing Mrs B's son's EHC Plan. Fault was also found with the failure to consider provision for preparation for adulthood at the correct time, failing to make the 2023 annual review accessible to Mrs B's son and failing to consult with relevant professional. Further fault was found with the Council failing to provide a transition plan for Mrs B's son to access education in school and failing to provide educational support from his EHC Plan.</p>	<p>Within one month of the Ombudsman's final decision the Council should:</p> <p>Complete and publish the information about what young people can expect from a person-centre approach and publish this on its SEND Information Hub (Local Offer).</p> <p>Complete and publish information in an accessible format on the Pathways through its processes on reviewing, maintaining and amending EHC Plans and publish this on its SEND Information Hub (Local Offer).</p> <p>Provide a payment of £750 to Mrs B for the avoidable distress caused by the Council's fault in this matter.</p> <p>Provide a payment of £4,050 to Mrs B to reimburse the privately sourced costs incurred for X's Clinical Psychologist sessions.</p>

		Provide a payment of £8,400 to Mrs B for X's missed educational provision from 20 January 2021 until 10 July 2023.
Children, Education and Families	Ms L complained the Council failed to deal properly with her daughter's care needs for many years and has failed to respect her powers of attorney for health and welfare and property and affairs. The Council accepted it failed to respect the fact that Ms L can manage her daughter's finances regardless of whether her daughter lacks the capacity to do so herself. The Council was also at fault over its handling of two mental capacity assessments, as it did not comply with its own statement on how it should approach such assessments. There was also a long delay in making a decision in the daughter's best interests.	<p>Within four weeks write to Ms L apologising for the distress it has caused and the inconvenience it has put her to and pay her £350 to remedy the injustice arising from that distress and inconvenience.</p> <p>Within eight weeks identify the action it is going to take to ensure future assessments of Ms L's daughter capacity meet the requirements it has agreed are necessary.</p>
Highways and Transport	The Council acknowledged an administrative error in the consideration of Ms F's blue badge renewal application and provided her with a blue badge during the investigation. However, it failed to remedy the injustice caused as a result of its error.	<p>The Council should, within four weeks of the final decision:</p> <p>Provide Ms F with a formal apology for the error in considering her application, the distress caused during the period she was without a blue badge, and for her time and trouble pursuing the complaint with the Council and this office;</p> <p>Pay Ms F £250 in acknowledgment of the above.</p>

<p>Adults</p>	<p>Ms V lives in a Care Home and was paying her own fees until she reached the financial threshold. For three months after she reached threshold, the Care Home was overpaid as it received fees from Ms V and the Council. The Care Home has refunded Ms V but her son, did not consider the amount is correct. The Ombudsman found the Care Home refunded the correct amount but failed to explain how it calculated the amount, causing Ms V and her son stress.</p>	<p>Within four weeks of the final decision, the Council should apologise to Ms V and her son for the care home provider not explaining how it calculated the refund when it made the payment.</p>
<p>Adults</p>	<p>Mr S, on behalf of Ms S, complained the Council failed to provide her appropriate help and support to complete a financial assessment and did not include disability related expenditure in the assessment. While there is no fault in the assessment process there has been fault in the consideration of the disability related expenditure. To remedy this fault the Council will conduct a review and make a new decision.</p>	<p>Within one month of the final decision, carry out a review of the DRE in respect of the cost of physiotherapy using the steps described in paragraph 28 of the decision and in consultation with Ms S. If it decides the physiotherapy is DRE it should recalculate the client contribution and notify Ms S.</p>
<p>Adults</p>	<p>Mrs W complained about an independent investigation report commissioned by a Council about the care of her son, N. Fault was found with some aspects of the investigation in relation to communication issues between the family and N' carers. The Council agreed to apologise to Mrs W for the uncertainty caused by this fault.</p>	<p>By 17 April 2024, the Council writes to Mrs W acknowledging and apologising for the uncertainty and distress caused to Mrs W by these faults in the investigation.</p>