

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**REPORT COVER SHEET**

Title of Report:	Monitoring Officer's Annual Report
Meeting of:	Council
Date:	25 <sup>th</sup> February 2019
Is this an Executive Decision:	NO
Is this a Key Decision:	NO
Is the report Confidential:	NO
If so, please state relevant paragraph from Schedule 12A LGA 1972:	n/a
<b>Essential Signatories:</b>	
<b>ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE</b>	
Monitoring Officer: Angela Wakefield	
Date .....	Signature .....
Chief Finance Officer: Sal Khan	
Date .....	Signature .....

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

Report to Council

Date: 25<sup>th</sup> February 2019

<b>TITLE:</b>	Monitoring Officer's Annual Report	
<b>PORTFOLIO:</b>	Monitoring Officer	
<b>HEAD OF SERVICE:</b>	Monitoring Officer	
<b>CONTACT OFFICER:</b>	Angela Wakefield	ext. No. x1267
<b>WARD(S) AFFECTED:</b>	None	

**1. Purpose of the Report**

- 1.1 The purpose of the report is to provide an annual review of the arrangements for the discharge of the Monitoring Officer's duties and proposals for amendments.

**2. Background**

- 2.1 The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989. The Solicitor to the Council currently performs this role. The Monitoring Officer's duties are to be discharged in accordance with legislative requirements, relevant Government guidance and the Council's Constitution. The Monitoring Officer is required to report to the Council regarding the arrangements for the discharge of their duties together with any proposals for amendments in the light of any issues that have arisen during the year.

**3. Contribution to Corporate Priorities**

- 3.1 There is no Corporate Plan target relating to the subject of this Report. However, good governance arrangements are fundamental to the well-being of the Council.

**4. Deputy Monitoring Officer**

- 4.1 Section 5 of the Local Government and Housing Act 1989 requires the Monitoring Officer to appoint a Deputy and keep them briefed on any relevant issues that they may be

required to deal with in the absence of the Monitoring Officer. The Monitoring Officer has appointed Chris Ebberley as Deputy Monitoring Officer in accordance with the provisions of the Act.

## **5. Role of the Standards Committee and the Standards Regime**

- 5.1 The Council has previously put in place arrangements under the Localism Act 2011 to deal with complaints about potential breaches of the respective Codes of Conduct of Borough and Parish/Town Councillors. Those arrangements appear to be working satisfactorily at present.

## **6. Standards Matters and Investigations**

- 6.1 The Monitoring Officer is required to give informal advice and undertake relevant enquiries into allegations of misconduct.
- 6.2 During the past year, the Monitoring Officer has given advice to a number of Councillors about their obligations under the Code of Conduct; and has given advice and support to a number of Parish Clerks.
- 6.3 As shown in the table below, since the last Annual Report in February 2018 the Council has received 26 formal complaints about possible breaches of the Code of Conduct by members of the Borough Council and 0 formal complaints about possible breaches of the Code of Conduct by a member of a Parish Council within the Borough. The complaints concern ten individual Councillors who are identified as Cllr A,B,C,D,E,F,G,H,I and J in the table below.

<b>Complaint Number</b>	<b>Borough Councillor or Parish Councillor</b>	<b>Action taken</b>
2018-04	Borough (Cllr A)	Informal resolution – apology given at Planning Committee and to complainant
2018-05	Borough (Cllr B)	Independent Investigation and referral to Standards Committee which found Cllr B to have breached Code of Conduct and Planning Code
2018-06	Borough (Cllr B)	Independent Investigation and referral to Standards Committee which found Cllr B to have breached Code of Conduct and Planning Code
2018-07	Borough (Cllr A)	Independent Investigation and referral to Standards Committee which found Cllr

		A to have breached Code of Conduct and Planning Code
2018-08	Borough (Cllr B)	Independent Investigation and referral to Standards Committee which found Cllr B to have breached Code of Conduct and Planning Code
2018-09	Borough (Cllr A)	Independent Investigation and referral to Standards Committee which found Cllr A to have breached Code of Conduct and Planning Code
2018-10	Borough (Cllr B)	Independent Investigation and referral to Standards Committee which found Cllr B to have breached Code of Conduct and Planning Code
2018-11	Borough (Cllr C)	Informal resolution – apology made to complainant
2018-12	Borough (Cllr A)	Independent Investigation and referral to Standards Committee which found Cllr A to have breached Code of Conduct and Planning Code
2018-13	Borough (Cllr B)	Independent Investigation and referral to Standards Committee which found Cllr B to have breached Code of Conduct and Planning Code
2018-14	Borough (Cllr B)	Independent Investigation and referral to Standards Committee which found Cllr B to have breached Code of Conduct and Planning Code
2018-15	Borough (Cllr D)	No action (no breach)

2018-16	Borough (Cllr D)	No action (no breach)
2018-17	Borough (Cllr D)	No action (no breach)
2018-18	Borough (Cllr D)	No action (no breach)
2018-19	Borough (Cllr D)	No action (no breach)
2018-20	Borough (Cllr E)	No action (no breach)
2018-21	Borough (Cllr D)	No action (no breach)
2018-22	Borough (Cllr F)	Informal resolution – retraction and clarification of comments complained of circulated by Cllr F after attending a meeting with the Chief Executive, Independent Person and Monitoring Officer
2018-23	Borough (Cllr G)	Independent investigation underway
2018-24	Borough (Cllr H)	Informal resolution – apology made to Council and to the Deputy Monitoring Officer
2018-25	Borough (Cllr I)	Independent Person and MO assessing action to be taken
2019-01	Borough (self-referral by Cllr J)	No action (no breach)

## 7. **Code of Conduct**

- 7.1 The Localism Act 2011 requires the Council (and Parish/Town Councils for which it is responsible) to adopt a Code of Conduct for councillors. All relevant councils have adopted Codes of Conduct.
- 7.2 All Members of the Borough Council have completed declaration of interest forms. They are asked to update their declarations at least annually, even if no changes are required to be notified. The Monitoring Officer has received several updated declarations since the election in May 2015, which suggests that there is a high level of awareness among Councillors of the need to notify changes as those occur.

7.3 At the time of writing all Parish/Town Councillors have completed declaration of interest forms, with the exception of two Parish Councils: Denstone and Rocester.

## **8. Constitution**

8.1 Arrangements have continued to review and monitor the operation of the Council's Constitution and to ensure that any decisions are made in accordance with it.

### **8.2 Proposed Changes to the Constitution**

At the December meeting of Planning Committee, Members resolved to recommend to Council the amendments to Part 3H and Part 5E of the Constitution which are shown as tracked changes at Appendix 1 and Appendix 2 respectively. Those amendments are summarised below:-

- **Ward Members public speaking protocol**

Ward Members attending committee will be given a 3 minute slot to speak in line with the constitution. However for clarity they will be sequentially last in the list of public speakers and be able to sit at the public speaking table during the debate. Ward Members will now be required to give 24 hours' notice of their wish to speak at committee so that the committee clerk can make sure that this is recorded in the Chair's notes. The Ward Member can also ask to join the debate by firstly outlining their reasons for doing so and for the Chair, if in agreement, to invite Ward Members to speak at the appropriate points in the debate and in accordance with their reasons for speaking.

Ward members often attend to speak at Committee and the procedure for doing so hasn't been managed consistently in recent years. In addition by separating Ward Members from Committee members it makes it clear to the audience who will be voting.

- **Site visits will be conducted**

The Constitution will set out that a site visit will always be held at least once. This clarifies the current position which states that a site visit will not be required in every instance and that members have to request them.

- **Other matters**

A few other matters which just tidy up process are also included in the tracked reports. In addition the following arrangements have been agreed:

- Officer presentations will be emailed to members on the day by officers;
- The Chair will ask Members to introduce themselves on the day to the audience;
- Ward Members will now form part of the speaking list which the Committee Clerk will revise for committee and adhere to new 24hr rule;
- The Committee call-in form will be amended to remove the requirement to give reasons for not choosing the delegated route and also adding a reference of the ability to remove the application from committee once called in if officers satisfy the Ward Members concerns;
- Additional text will be added to the Members weekly briefing which links to the agenda. Suggested wording as follows:

*Please follow the link to access the Planning Committee Agenda. Ward Members are allowed to attend site visits and address the committee. Please contact the Planning Manager for the site visit timings.*

- The references to Sal Khan in the report will be amended to Head of Service Sal Khan.

## **9. Regulation of Investigatory Powers Act 2000 (“RIPA”)**

- 9.1 RIPA requires local authority officers and agents to have authorisation to carry out certain types (or use certain methods) of covert surveillance, in order for the surveillance to be lawful for all purposes. Authorisation is a two-step process: first internal authorisation must be obtained and secondly an application has to be made to the Magistrates’ Court.
- 9.2 The Monitoring Officer is required to report to Full Council on usage of RIPA authorisations and must also report the fact that there has been no usage of RIPA authorisations. For the year since the last Annual Report there has been no usage of RIPA authorisations and it therefore remains the case that no authorisations have been sought for many years.

## **10. Financial Considerations**

*This section has been approved by the following member of Financial Management Unit:  
Lisa Turner*

- 10.1 The increased number of Member Conduct Complaints has resulted in a budgetary pressure which is reflected in the Medium Term Financial Strategy elsewhere on the agenda for this meeting.

## **11. Risk Assessment and Management**

- 11.1 The main risks to this Report and the Council achieving its objectives are as follows.
- 11.2 Positive (Opportunities/Benefits):
- 11.2.1 The maintenance of the Council’s credibility and good governance by a high standard of ethical behaviour.
- 11.3 Negative (Threats)
- 11.3.1 Loss of credibility if standards fall.
- 11.4 The risks are referred to in the Risk Register numbered. Any financial implications to mitigate against these risks are considered above.

## **12. Legal Considerations**

*This section has been approved by the following member of the Legal Team: Angela Wakefield.*

- 12.1 There are no significant legal issues arising from this Report. The matters covered by this Report are generally requirements of the Localism Act 2011.

### **13. Equality and Health**

- 13.1 **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.
- 13.2 **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

### **14. Human Rights**

- 14.1 There are no Human Rights issues arising from this Report.

### **15. Sustainability (including climate change & change adaptation measures)**

- 15.1 Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A
- 15.2 Please detail any positive/negative aspects:

Positive (Opportunities/Benefits)

15.2.1 None

Negative (threats)

15.2.2 None

### **16. Recommendation**

- 16.1 To note this report.
- 16.2 To approve the changes to 3H and 5E outlined in this report and shown at Appendix 1 and Appendix 2.

### **17. Background papers**

- 17.1 None.

### **18. Appendices**

- 18.1 Appendix 1: revised Part 3H of the Council's Constitution
- 18.2 Appendix 2: revised Part 5E of the Council's Constitution