



**EAST STAFFORDSHIRE BOROUGH COUNCIL**  
**REPORT COVER SHEET**

<b>Title of Report:</b>	The Annual Report of the Monitoring Officer	To be marked with an 'X' by Democratic Services after report has been presented
<b>Meeting of:</b>	Corporate Management Team	N/A
	Pre Cabinet	N/A
	Leader's / Leader of the Opposition's Advisory Group	N/A
	Standards Committee – 4 <sup>th</sup> March 2024	X
	Council – 18 <sup>th</sup> March 2024	X



<b>Title of Report:</b>	The Annual Report of the Monitoring Officer  Audit Committee / Scrutiny Regeneration, Development and Market Hall Committee / Scrutiny Health and Well Being Committee / Scrutiny Climate Change and Environment Committee / Scrutiny Value for Money Council Committee	To be marked with an 'X' by Democratic Services after report has been presented  N/A
-------------------------	---	--

<p><b>Is this an Executive Decision:</b></p>	<p>NO</p>	<p><b>Is this a Key Decision:</b></p>	<p>NO</p>
<p><b>Is this in the Forward Plan:</b></p>	<p>NO</p>	<p><b>Does this report contain Confidential or Exempt Information:</b></p> <p><b>If the report Contains Confidential Information, please provide reason.</b></p> <p><b>If the report contains Exempt Information, please state relevant paragraph from Schedule 12A LGA 1972:</b></p>	<p>NO</p> <p>N/A</p> <p>N/A</p>



**Essential Signatories:**

**ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE**

Monitoring Officer: **John Teasdale**

Date ..... Signature .....

Chief Finance Officer: **Lloyd Haynes**

Date ..... Signature .....

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Full Council**

**Date: 18<sup>th</sup> March 2024**

**REPORT TITLE: The Annual Report of the Monitoring Officer**

**PORTFOLIO: Monitoring Officer**

**CHIEF OFFICER: John Teasdale**

**CONTACT OFFICER: John Teasdale Ext. No. x1267**

**WARD(S) AFFECTED: 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 Head of Legal and Regulatory 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. Mr Glen McCusker, Solicitor, has been appointed as one of the Council's Deputy Monitoring Officers, in accordance with the provisions of the Act.
- 4.2 The Monitoring Officer will also be appointing Mrs Penelope James as one of his Deputy Monitoring Officers. Mrs James will be starting with the Council as Principal Solicitor and Deputy Monitoring Officer on 18<sup>th</sup> March 2024.

#### **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 for Borough and Parish/Town Councillors. Those arrangements appear to be working satisfactorily at present and thanks is extended to the Chair of Standards Committee, Councillor Louise Walker, and members of the committee for their input.

#### **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 The Monitoring Officer has given advice and support 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 Since the last annual report of the Monitoring Officer in March 2023, there have been four Standards complaints received.
- 6.4 One complaint was received from a local Parish Councillor but did not progress to consideration as it was withdrawn following resolution between the parties.
- 6.5 A further Parish Council complaint was received recently and was going through the Standards process. This complaint was followed up with an additional complaint linked to the first, however both complaints have recently been withdrawn.
- 6.6 The final complaint has been submitted by a Borough Councillor and a decision issued by the Deputy Monitoring Officer, Mr Glen McCusker, has resolved that no further action is required.
- 6.7 Separate to the above matters, there is an outstanding complaint which is currently being considered by an external investigator following a determination by the Monitoring Officer that an investigation was required. It is a longstanding matter, primarily due to the number



of witnesses and enquiries made, however a finalised report is expected to be returned soon.

- 6.8 Nevertheless and by comparison to the previous year, the number of Standards complaints received has reduced drastically. Which is positive and indicates a deeper awareness of the process and the Code.
- 6.9 Concluding this section, Members will recall the report of the Monitoring Officer in December which appointed Mr Graham Goodall and Mrs Sarah Riches as Independent Persons for a term of four years. The arrangement is working efficiently with both Mr Goodall and Mrs Riches complimenting the process and bringing their experience to bear. Officers are thankful for their assistance throughout.

## **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 updated declarations since the elections of 2023 and no declarations are outstanding.
- 7.3 In terms of Parish/Town Councillors, we are currently waiting on declarations from Members of Outwoods, Stapenhill and Yoxall. The Monitoring Officer has formally written to these Councils requesting the declarations and has since received acknowledgements from these parishes.

## **8. Constitution**

- 8.1 Arrangements have continued to review and monitor the operation of the Council's Constitution to ensure that any decisions are made in accordance with it.
- 8.2 A full review of the Constitution was reviewed and approved by Full Council in December 2022 and subsequent amendments have been made in July and December 2023 to better reflect the Council's process and improve the efficiency of those processes.
- 8.3 The Monitoring Officer maintains a record of suggested amendments and reviews these annually with relevant colleagues, bringing any suggested changes before Full Council.

## **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 the usage of RIPA authorisations. There has been no usage of RIPA authorisations by the Council. Indeed it remains the case that no authorisations have been sought for many years.
- 9.3 Nevertheless the most recent training on RIPA was arranged for relevant officers in November 2023. This was to ensure that staff are fully apprised of recent changes in procedure and legislation. Following this, an update of the Council's RIPA policy took place in January 2024.
- 9.4 An inspection of the Council's processes and procedures by the Investigatory Powers Commissioner's Office (IPCO) took place in the summer of 2023. Positive feedback was received from the Inspector following a desktop inspection of the Council's records. Following assurance, it has been confirmed that the next inspection will take place in 2026.

## **10. Financial Considerations**

*This section has been approved by the following member of Financial Management Unit: Lloyd Haynes.*

- 10.1 There are no significant financial issues arising from this report.

## **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. Data Protection Implications – Data Protection Impact Assessment (DPIA)**

- 12.1. A DPIA must be completed where there are plans to:
- use systematic and extensive profiling with significant effects;
  - process special category or criminal offence data on a large scale; or
  - systematically monitor publicly accessible places on a large scale
  - use new technologies;
  - use profiling or special category data to decide on access to services;
  - profile individuals on a large scale;



- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

12.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

### **13. Human Rights**

13.1 There are no Human Rights issues arising from this report.

### **14. Legal Considerations**

*This section has been approved by the following member of the Legal Team: John Teasdale*

14.1 There are no significant legal issues arising from this Report. The matters covered by this Report are generally requirements of the Local Government and Housing Act 1989, the Localism Act 2011 and the Regulation of Investigatory Powers Act 2000.

### **15. Equality and Health**

15.1 **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.

15.2 **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.

### **16. Human Rights**

16.1 There are no Human Rights issues arising from this Report.

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

17.1 Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A

17.2 Please detail any positive/negative aspects:

Positive (Opportunities/Benefits)

17.2.1 None

Negative (threats)

17.2.2 None

**18. Recommendation**

18.1 To note this report.

**19. Background papers**

19.1 None.

**20. Appendices**

20.1 None.