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**REPORT TO: MORAY COUNCIL ON 2 SEPTEMBER 2020**

**SUBJECT: INFORMATION REPORT: MONITORING OFFICER ISSUES  
ARISING 1 JUNE 2019 TO 31 JULY 2020**

**BY: MONITORING OFFICER**

**1. REASON FOR REPORT**

- 1.1 To report on the range of activities undertaken by the Monitoring Officer.
- 1.2 This report is submitted to Council in terms of Section III A (4) of the Council's Scheme of Administration relating to public performance reporting.

**2. BACKGROUND**

- 2.1 There is a statutory requirement for every Council to appoint a Monitoring Officer. The Head of Governance, Strategy and Performance performs this role in Moray Council supported by the Legal Services Manager who acts as Depute Monitoring Officer.
- 2.2 Legislation requires the Monitoring Officer to bring to the attention of the Council:
- *A contravention of law or any code of practice made or approved under any enactment; or*
  - *Maladministration or injustice in each case actual or potential and whether by the Council, committees, sub-committees or officers.*
- 2.3 It is normal practice in local authorities for the Monitoring Officer to:
- Promote good governance and sound decision making.
  - Promote the Councillors Code of Conduct.
- 2.4 The Council's Policy and Resources Committee on 2 October 2012 agreed that the Monitoring Officer would present an annual report on the activities of the post (para 8 of the minute refers).

### **3. SUMMARY OF WORK UNDERTAKEN**

#### **3.1 Statutory role**

4.1.1 There have been no formal reports of legal contravention or maladministration.

#### **3.2 Governance role**

During the period covered by the report the Monitoring Officer has:

- 3.2.1 Reviewed agendas, reports and notices of motion submitted for all formal meetings of the Council and its Committees/Sub-Committees. This is a significant aspect of the Monitoring Officer's workload, often undertaken over a very restricted period to enable committee papers to be published within the statutory timescales. Given staffing reductions within Legal Services, a lighter touch is now being given to this review process with time spent being relative to the risk.
- 3.2.2 Advised all councillors - administration and opposition- on practical application of the Council's Constitutional Documents to the committee system, including advice on Notices of Motion, competency of motions, Written Questions and Suspension of Standing Orders. Such advice requests have increased in frequency, perhaps due to the current political balance of the Council and the tensions this gives rise to.
- 3.2.3 Advised CMT and Councillors on statutory duties and the legal requirements to set a balanced budget.
- 3.2.4 Carried out an annual review of the Council's constitutional documents. This involved substantial changes to the Scheme of Delegation document to take account of changes in the senior management structure agreed by the Council in October 2019.
- 3.2.5 Commenced a governance review with an initial report to the Council in January 2020 establishing the Council's preference for a committee structure over a cabinet structure. The intended follow up report, due in June 2020 was overtaken by the Council's Covid 19 response.
- 3.2.6 Delivered an alternative temporary governance structure with an Emergency Cabinet and publicly viewable online meetings to help the Council continue to function during the ongoing Covid-19 response.
- 3.2.7 Ensured that the Council is aware of and compliant with all major pieces of new legislation through the legal services section.

### 3.3 Code of Conduct Role

During the period covered by the report the Monitoring Officer has:

- 3.3.1 Maintained the register of councillors interests including six monthly reminders and council tax payment checks prior to budget setting.
- 3.3.2 Given advice to councillors on individual circumstances, dealt with councillor /councillor complaints and mediated in situations of conflict. These complaints have fallen under the categories of:
- councillors showing a lack of respect for each other
  - councillor showing a lack of respect for officers.
  - language used on social media
  - inappropriate use of council facilities
- and dealing with such complaints has taken up an increased amount of Monitoring Officer time.
- The Monitoring Officer will continue to address any matters that require his direct input but it should be noted that there is also a role for Group Leaders in the Council's relevant governance documents to try and resolve such issues without the need for Monitoring Officer involvement.
- 3.3.3 Provided regular email updates to Councillors on the Code of Conduct, Standards Commission briefings and cases. It is intended to run a training session on relevant issues from the Code in October 2020.
- 3.3.4 Dealt with 2 formal complaints to the Ethical Standards Commissioner relating to Registration of Interests and Declaration of Interests.

## 4. SUMMARY OF IMPLICATIONS

- (a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**  
Effective governance is required for the delivery of the Council's stated priorities and plans.
- (b) **Policy and Legal**  
These are detailed more fully in the report.
- (c) **Financial Implications**  
None
- (d) **Risks implications**  
Actions taken by the Monitoring Officer are designed to contribute towards the Council's risk management processes.

**(e) Staffing implications**

The MO role is carried out by the Head of Governance Strategy and Performance, supported by the Legal Services Manager..

**(f) Property Implications**

None

**(g) Equalities/Socio Economic Impact**

There are no issues arising directly from this report.

**(h) Consultations**

The Depute Monitoring Officer has been consulted and her comments have been reflected in the report.

**5. CONCLUSION**

**5.1 The Council is invited to consider and note the activities undertaken by the Monitoring Officer during the period covered by this report.**

Author of Report: Alasdair McEachan, Head of Governance Strategy and Performance. Monitoring Officer

Background Papers: None

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