



**REPORT TO: SPECIAL MORAY COUNCIL ON 27 JUNE 2019**

**SUBJECT: MONITORING OFFICER ISSUES ARISING 1 AUGUST 2018 TO 31 MAY 2019**

**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. RECOMMENDATION**

- 2.1 The Council is asked to consider and note the activities of the Monitoring Officer over the period 1 August 2018 to 31 May 2019.**

**3. BACKGROUND**

- 3.1 There is a statutory requirement for every Council to appoint a Monitoring Officer. The Head of Legal and Democratic Services performs this role in Moray Council supported by the Legal Services Manager who acts as Depute Monitoring Officer.
- 3.2 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.*
- 3.3 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.
- 3.4 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).

## 4. **SUMMARY OF WORK UNDERTAKEN**

### 4.1 Statutory role

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

### 4.2 Governance role

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

4.2.1 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.*

4.2.2 Advised administration and opposition councillors on practical application of the Council's Constitutional Documents to the committee system, including advice on Notices of Motion, Written Questions and Suspension of Standing Orders. *There is an upward trend in the number of such requests, perhaps reflecting a more politicised Council. Recent issues have been around confidentiality and publicity of decisions.*

4.2.4 Advised CMT and Councillors on statutory duties and the legal requirements to set a balanced budget. *Growing pressure on Council budgets is increasingly likely to create tension between statutory priorities.*

4.2.5 Carried out an annual review of the Council's constitutional documents. *This is largely a routine housekeeping exercise picking up, for example, changes to officer delegations as a result of realignment of services. A more fundamental review of the Council's Scheme of Administration has been agreed as part the Improvement and Modernisation programme and is scheduled to take place shortly.*

4.2.6 Delivered training for councillors on governance issues. *Topics have included the scrutiny role of councillors and the complementary but distinct roles of councillors and officers, with one session being led by the Improvement Service.*

4.2.7 Reviewed governance and scrutiny arrangements in place with outside bodies such as the Integration Joint Board, NESS (North East Scotland Shared) Energy from Waste Project and Moray Leisure.

4.2.8 Ensured that the Council is aware of and compliant with all major pieces of new legislation through the legal services section.

4.2.9 Introduced a register of senior officers interests which can be viewed on the Council's website.

#### 4.3 Code of Conduct Role

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

4.3.1 Maintained the register of councillors interests including six monthly reminders and council tax payment checks prior to budget setting.

4.3.2 Given advice to councillors on individual circumstances and mediated in situations of conflict.

*There has been an increase in the number of internal complaints about conduct in the Council chamber and about comments on social media. Future training will be focused around these issues.*

4.3.3 Provided regular email updates to Councillors on Standards Commission developments and topical issues.

4.3.4 There have been no formal communications with the Commissioner for Ethical Standards over investigations and complaints.

### 5. 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 Legal and Democratic Services, Supported by the Legal Services Manager

(f) **Property Implications**

None

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

There are no issues arising directly from this report.

**(e) Consultations**

The Depute Monitoring Officer have 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, Monitoring Officer

Background Papers: None

Ref: