

# Broads Authority

22 September 2023

Agenda item number 13

## Monitoring Officer Protocol

Report by Senior Governance Officer

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### Purpose

This report proposes the adoption of a Monitoring Officer Protocol.

### Recommended decision

To review and adopt the proposed Monitoring Officer Protocol.

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## 1. Introduction

- 1.1. The Authority's constitutional documents comprise various codes and protocols which govern the conduct of officers and Members in carrying out their duties. It is considered beneficial to have in place arrangements to ensure that the Statutory Officer post of Monitoring Officer can carry out their responsibilities with the support of Members and officers. The role of the Monitoring Officer is a significant one and it is important that there is full understanding of the rights, obligations and purposes of the role.
- 1.2. It is considered that it would be good practice for the Authority to introduce an appropriate protocol.

## 2. The Protocol

- 2.1. A protocol has been developed, based on examples common amongst local authorities and other National Parks. This can be found at appendix 1.
- 2.2. As Members will be aware, the current arrangements are that the roles of Monitoring Officer and Deputy Monitoring Officer are provided by external solicitors, Wilkin Chapman. However, the Protocol applies to the role and would, therefore, apply whether the role is carried out by an external consultant or internal employee of the Authority.

## 3. Risk implications

- 3.1. There are no risks associated with the proposal and, if the Protocol were not to be adopted by Members, the Monitoring Officer would continue to carry out their responsibilities in accordance with the relevant legislation. However, having such a Protocol would demonstrate that the Authority had arrangements in place to ensure

that the Monitoring Officer could carry out their responsibilities with the support of Members and officers.

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Date of report: 06 September 2023

[Broads Plan](#) strategic objectives: n/a

Appendix 1 – Monitoring Officer Protocol

## Monitoring Officer Protocol

### 1. Statutory Responsibilities

- 1.1. The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989 (“the Act”).
- 1.2. The Deputy Monitoring Officer (who is appointed by the Monitoring Officer) shall discharge the duties and responsibilities of the Monitoring Officer when they are absent.
- 1.3. A summary list of the Monitoring Officer’s responsibilities can be found in Appendix 1. The Monitoring Officer’s ability to discharge these duties and responsibilities will depend, to a large extent, on Members and officers:
  - a. complying with the law (including any relevant Codes of Conduct);
  - b. complying with any general guidance, codes or protocols issued from time to time, by the Monitoring Officer;
  - c. generally, not taking action that would bring the Authority, their offices, or professions into disrepute.

### 2. Working Arrangements

- 2.1. The Monitoring Officer will discharge the duties and responsibilities with balanced determination without fear or favour and in a manner that will enhance the reputation of the Authority. In discharging these duties and responsibilities the Monitoring Officer is assisted by the Section 17 Officer<sup>i</sup> and the Senior Governance Officer.
- 2.2. To ensure that high standards of corporate governance and probity are maintained throughout the Authority, the Monitoring Officer will develop and maintain effective working relations with:
  - a. the Head of Paid Service<sup>ii</sup> and Directors;
  - b. Section 17 Officer;
  - c. all members of the Authority, particularly the Chair and Vice-Chair;
  - d. external and internal auditors; and
  - e. the Independent Person(s).
- 2.3. The Head of Paid Service, the Section 17 Officer and the Monitoring Officer are all statutory appointments with a duty to consult each other.
- 2.4. All Members and officers have a responsibility to inform the Monitoring Officer of any issues of concern and risk, including issues around legal powers and duties, ethical standards, probity, propriety and procedural or other constitutional issues that arise or are likely to arise.
- 2.5. The Monitoring Officer will
  - a. be consulted by the Section 17 Officer when exercising any duties under the Local Government Act 1988;

- b. have unqualified access to any information held by the Authority and to any officer who can assist in the discharge of any functions in carrying out any investigations.
- c. be available for Members and officers to consult on any issues of the Authority's legal powers, possible maladministration, impropriety and probity issues or general advice on the constitutional arrangements; and
- d. report to the Authority, from time to time, on the constitutional arrangements and advise on any necessary or desirable changes following consultation with key officers, including the Head of Paid Service and the Section 17 Officer.

### **3. Standards Matters**

3.1. The Monitoring Officer has a key role in promoting and maintaining high standards of conduct and has responsibility under the Localism Act 2011 and adopted Authority procedure for all matters relating to the Members' Code of Conduct.

3.2. In carrying out these responsibilities the Monitoring Officer will:

- a. Give advice on the Authority's Code of Conduct for Members and declarations of interests;
- b. Maintain and keep up to date the statutory registers for members for the declaration of interests and registration of gifts and hospitality;
- c. Advise the Authority on matters relevant to the Members' standards functions;
- d. Carry out investigations or appoint an external investigator following a complaint that a Member has breached the Members' Code of Conduct, and arrange for a hearing in accordance with the Authority's adopted procedure (arrangements for dealing with standards allegations under the Localism Act 2011); and
- e. Provide training to Members on ethical standards and Code of Conduct issues.

### **4. Insurance and Indemnity**

4.1. To ensure the effective and efficient discharge of this protocol, the Section 17 Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Authority and the proper discharge of the Monitoring Officer's role.

### **5. Monitoring the Protocol**

5.1. Annually, the Monitoring Officer will report to the Standards Committee on Member complaints and whether the arrangements in this Protocol have been complied with and will include any proposals for amendments in light of any issues which have arisen during the year.

### **6. Conflicts and Interpretation of this Protocol**

6.1. Where the Monitoring Officer has received a complaint of conflict relating to another investigation or advice provided, or believes that one may be perceived, or receives a complaint regarding an investigation relating to a complaint against a

Broads Authority Member (ie concerning the investigation or the investigator) then the Monitoring Officer may discuss this issue with the Head of Paid Service or Section 17 Officer and/or may refer the matter to the Deputy Monitoring Officer or appoint an external party to act as deputy in this matter. In relation to complaints regarding an investigation or investigation, the Monitoring Officer or their deputy will consider this and confirm their decision / response on the complaint.

6.2. The Monitoring Officer will be responsible for interpretation of this Protocol.

Adopted: September 2023

Review: September 2026

## Appendix 1 - Summary of Monitoring Officer functions

1. Report on contraventions or likely contraventions of any enactment or rule of law in relation to the Authority (Sections 5 and 5A of the Local Government and Housing Act 1989).
2. Report on any maladministration or injustice where the Ombudsman has carried out an investigation (Section 5 of the Local Government and Housing Act 1989).
3. Appointment of Deputy (Section 82A of the Local Government Act 2000).
4. Report on sufficiency of resources (Sections 5 and 5A of the Local Government and Housing Act 1989).
5. Establish, maintain, and publish Register of Members' Interests and Register of Gifts and Hospitality (Section 29 of the Localism Act 2011).
6. Advise Members and officers on interpretation of the Members' Code of Conduct.
7. Maintain, review, and monitor the Authority's Constitution.
8. Proper Officer for the receipt of dispensations (Section 33 of the Localism Act 2011).
9. Proper Officer for access to information guidance.
10. Officer for receipt of complaints about Members and determination of whether to reject, investigate or undertake informal action.
11. Advise on vires issues, maladministration, financial impropriety, and budget issues (in consultation with the Section 17 Officer where appropriate) and bias/predetermination (Sections 5 and 5A of the Local Government and Housing Act 1989).

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<sup>i</sup> This role is undertaken by the Director of Finance

<sup>ii</sup> This role is undertaken by the Chief Executive