



AUDIT & ACCOUNTS COMMITTEE
29 September 2015

Report of the Monitoring Officer

ITEM 10

Annual Governance Report prepared by the Monitoring Officer

SUMMARY

- 1.1 Section 5 Local Government and Housing Act 1989 requires the Council to appoint a Monitoring Officer. Derby City Council has appointed Janie Berry, Director of Governance (formerly Director of Legal & Democratic Services) as Monitoring Officer. I am a practicing solicitor and Chief Legal Officer for the City.
- 1.2 The Monitoring Officer's Annual Governance Report supports the Council's Annual Governance Statement and provides a review of my work as part of the Council's governance arrangements.

RECOMMENDATION

- 2.1 To note the contents of this report.

REASONS FOR RECOMMENDATION

- 3.1 It is good practice for the Monitoring Officer to provide comment on the Council's governance arrangements.



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SUPPORTING INFORMATION

4.1 Role of the Monitoring Officer

The principle responsibilities of my role are:

- A duty to report to Full Council and Cabinet in any case where I am of the opinion that any proposal or decision is, or is likely to be, illegal or constitute maladministration;
- A range of functions relating to Member conduct;
- Specific functions prescribed by Article 12 of the Council's Constitution and Part 3 of the Constitution.

4.2 I also have a number of duties that do not necessarily result from the statutory functions of the Monitoring Officer but for which the person in that role is best placed to be the Proper Officer:

- I am the Senior Responsible Officer in respect of the Regulation of Investigatory Powers Act 2000. I report quarterly on the Council's use of these powers to the Audit & Accounts Committee
- I am the Senior Responsible Officer for the council's Confidential Reporting Code (Whistleblowing Policy). I ensure that the Audit & Accounts Committee receives updating reports where necessary;
- I act as the Council's Electoral Registration Officer and (Acting) Returning Officer Derby City and the three Parliamentary Constituencies of Derby North, Derby South and Mid Derbyshire;
- I am the Proper Officer for the Registration Service (since March 2015).

4.3 One aspect of the way in which the Monitoring Officer fulfils her responsibilities is by ensuring that legal advice is available to Full Council and its committees. In practice, I, or a solicitor, attend all meetings of Full Council, Cabinet, the Regulatory Committees, Corporate Scrutiny & Governance Overview & Scrutiny Committee, Audit & Accounts Committee and the Standards Committee. I or a representative also attend the Scrutiny Boards and other meetings as required.

4.4 I also ensure legal advice is available to Officers as required.

5.1 Monitoring of the Constitution

The day to day operation of the Constitution is undertaken by the Head of Democracy (formerly Democratic Services Manager), in consultation with me.

- 5.2 Save for amendments required urgently as a direct result of legislative changes, all amendments to the Constitution are placed before Full Council for approval. For example changes to reflect the interim transfer of the s151 role from the Strategic Director of Resources to the Director of Finance, changes resulting from the departure of the Chief Executive and the appointment of an Interim Chief Executive and subsequent changes to the Deputy Chief Executive role, changes to the authorising officers for the Regulation of Investigatory Powers Act 2000.
- 5.3 During 2014/2015, I am of the opinion that the Constitution has been appropriately amended as the need arose, however, during 2015/2016, there will need to be a fundamental refresh of the Constitution to accommodate a number of issues including the changes in the political make-up of the Council and outcomes of the Corporate Management Restructure.

6.1 Members Code of Conduct and the Standards Committee

I am supported by a Democratic Services Officer in all aspects of Code of Conduct issues and the promotion and effectiveness of the Standards Committee.

- 6.2 I have a strong working relationship with the Chair of the Standards Committee, Councillor Tittley, in order to effectively deal with any Code of Conduct complaints which are received. During 2014/2015, I fully investigated all of the Code of Conduct complaints which were received.
- 6.3 The Standards Committee is made up of
- 5 Elected Members (2 of these seats are vacant and await nominations from the Conservative Group and the Liberal Democrat Group);
 - 2 Co-Opted Persons;
 - 2 Independent Persons.
- 6.4 I fully support the Chair of the Standards Committee to ensure Full Council receives and Annual Report on the Functions of the Standards Committee. A copy of the Annual Report for 2014/2015 appears as Appendix 2 to this Report.
- 6.5 In respect of training, I have taken steps to ensure all newly appointed elected members receive Code of Conduct Training, as well as training for Elected Members appointed to the Regulatory Committees, namely Planning and Licensing. In respect of Licensing, the training to Elected Members has been significantly strengthened to respond to the observations reported by Louise Casey in respect of issues occurring at Rotherham Council.
- 6.6 By way of assistance to Elected Members and to continue to promote good ethical governance, the Standards Committee has continued to support a guide to the Declarations of Interest as a mandatory item for all Council meeting agendas.
- 6.7 I can confirm that a Register of Elected Members interests is maintained by Democratic Services and is available to view on CMIS.

7 Ethics and Governance

7.1 Meetings

In order to strengthen the governance for meetings, report sign-off guidelines have now been introduced and are easily accessible on iDerby.

These guidelines have sought to strengthen “version control” and the accuracy and quality of Officer advice to support Member decision making. I, and all Democratic Services Officers, have responsibility for implementing and advising report writing Officers on the sign off guidelines.

I am satisfied, that council meeting Agendas have been published in accordance with the Access to Information Act 1985 and the Council’s Constitution.

7.2 Supervision of the Monitoring Officer and the Acting Chief Finance Officer (s151)

Since 29 January 2015, the Monitoring Officer and the Acting Chief Finance Officer (s151) have both reported directly to the Interim Head of Paid Service. This change was instigated by Mr Robinson, Interim Chief Executive and Interim Head of Paid Service following the earlier suspension of the Strategic Director of Resources (Mr Kershaw) in July 2014, and then the departure of the Chief Executive (Mr Wilkinson) in January 2015. This change in reporting structure has, in my opinion, had a positive impact on the Council’s governance arrangements.

7.3 Relationship with Grant Thornton, External Auditor

I have developed a strong professional working relationship with the Council’s External Auditor, Grant Thornton.

As a direct result of the governance issues highlighted in the council’s 2013/2014 Annual Governance Statement, which appears as Appendix 3 of this report, I have had regular meetings with Grant Thornton to offer reassurance and to refresh and build upon the Council’s existing governance framework and to support the Interim Head of Paid Service in delivering a culture of transparency and integrity.

I have worked in partnership with the Council’s Head of Governance and Assurance and the Chair of the Audit and Accounts Committee to ensure Grant Thornton has a meaningful role at meetings of Audit & Account Committee.

7.4 Statutory Monitoring Officer Reports

During 2014/2015, I have not had cause to issue any formal report to Council pursuant to s5(2) Local Government and Housing Act 1989. However I have, as Monitoring Officer, fully co-operated with the investigations undertaken by the

Designated Independent Person following the suspension of the Strategic Director of Resources in July 2014.

7.5 Regulation of Investigatory Powers Act 2000

As Senior Responsible Officer, I am satisfied that all of the recommendations from the Office of Surveillance Commissioner's Inspection into the Council's application of the Regulation of Investigatory Powers Act 2000, have now been implemented. I ensure that Members receive a quarterly update on the Council's use of these powers via the Audit & Accounts Committee.

7.6 Elections

In 2013, a Poll Clerk employed during the 2011 election was convicted of personation and received a custodial sentence. In response to this the Electoral Commission named Derby City Council as one of sixteen authorities at greater risk of electoral fraud for the 2014 local and European parliamentary elections.

As a result of this declaration the Council strengthened internal governance arrangements and Paul Robinson, Interim Head of Paid Service formally acted as Deputy Returning Officer (with full powers). I and Mr Robinson have developed a strong working relationship with Derbyshire Constabulary and had a positive duty to submit all performance reports to the Electoral Commission for evaluation. The Electoral Commission deemed the Council's arrangements for the May 2014 combined election to be of satisfactory or above standard in all aspects.

All election related concerns reported to me and Mr Robinson were fully investigated and where relevant reported to the Derbyshire Constabulary. There were no findings of, or, convictions for electoral fraud arising from the May 2014, combined elections. No petitions were received in respect of the declared results for the May 2014 combined elections.

7.7 Local Government Ombudsman

In 2014/2015, the Council received 44 complaints from the Ombudsman across the Four Directorates. These have resulted in the following outcomes:

- 14 – no investigation to be carried out/outside of the jurisdiction;
- 5 – closed as complaint was premature;
- 9 – no fault found;
- 1 – Council held to be at fault;
- 4 – Council held to be at partial fault;
- 11 – investigation still on-going

Two of the cases upheld or partially upheld resulted in compensation payments being made by the Council to the respective complainants.

7.8 Job Evaluation

In response to my expressing concerns about contractual issues relating to the Strategic Partner for delivery of job evaluation, the Council entered into a contract with Hay Group in October 2014, to re-evaluate all job roles both in non-schools and schools (non-teaching) environments. The Council has an anticipated implementation date of 1 January 2016.

7.9 Monitoring by the Information Commissioner

As detailed fully within the proposed Annual Governance Statement for 2014/2015, the Council has been the subject of formal monitoring by the Information Commissioner. As a result of a number of issues and inadequacy of procedures to respond to Freedom of Information requests, the Information Commissioner issued the Council with an Action Plan for compliance. This involved the submission of response times to freedom of information requests, the mandatory requirement for all Council employees (and Elected Members) to undertake appropriate training and for the delivery of externally provided training to key Officers and Elected Members.

I have fully supported the Head of Governance and Assurance to ensure that all of the Information Commissioners prescribed tasks have been addressed and I have secured additional funding for key posts within the Information Governance Team.

8.1 Overall Opinion on the Adequacy and Effectiveness of the Council's Governance Framework

I am of the opinion that the systems of internal control administered by the Monitoring Officer, including the Council's Constitution, were adequate for the period 2014/2015. There has been substantial improvement in the Council's approach to governance, as detailed within the proposed Annual Governance Statement for 2014/2015, which has built on the significant concerns highlighted in 2013/2014 Conditional Annual Governance Statement. Given the conditional status of the Council's Annual Governance Statement it is not possible to give a definitive view as to effectiveness at this stage.

OTHER OPTIONS CONSIDERED

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| 10 | It is good practice for the Monitoring Officer to provide comment on the Council's governance arrangements |
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This report has been approved by the following officers:

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| Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s) | Janie Berry, Director of Governance & Monitoring Officer Martyn Marples, Director of Finance & Chief Finance Officer Paul Robinson, Chief Executive and Head of Paid Service Richard Boneham, Head of Governance and Assurance |
| For more information contact: Background papers: List of appendices: | Janie Berry 01332 642552 janie.berry@derby.gov.uk CIPFA and Solace Framework for Good Governance Annual Governance Statement 2014/2015 Appendix 1 – Implications Appendix 2 – Annual Report of the Standards Committee 2014/2015 Appendix 3 – Annual Governance Statement 2013/2014 |

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| IMPLICATIONS |
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Financial and Value for Money

1.1 None arising from this report.

Legal

2.1 As detailed within the report.

Personnel

3.1 None arising from this report.

IT

4.1 None arising from this report.

Equalities Impact

5.1 None arising from this report.

Health and Safety

6.1 None arising from this report.

Environmental Sustainability

7.1 None arising from this report.

Property and Asset Management

8.1 None arising from this report.

Risk Management

9.1 None arising from this report.

Corporate objectives and priorities for change

10.1 None arising from this report.