

**EPPING FOREST DISTRICT COUNCIL – PROTOCOL REGULATING  
THE DUTIES OF THE ROLE OF MONITORING OFFICER**

1. The Monitoring Officer undertakes to discharge the responsibilities outlined in this Protocol with determination and in a manner which will enhance the reputation of the Council. In general terms the ability to discharge these duties depends on excellent working relations with colleagues and elected Members of the Council, but also on the flow of information and access to debate, particularly at early stages.
2. The following arrangements and understandings between the Monitoring Officer and colleagues and Councillors are designed to help ensure the effective discharge of the Monitoring Officer's functions:-
  - (a) the Monitoring Officer will be a member of the Council's Management Board;
  - (b) the Monitoring Officer will be given advance notice of meetings (whether formal or informal) between Chief Officers, Committee and Sub Committee Chairmen where any procedural, vires or other constitutional issues are likely to arise;
  - (c) the Monitoring Officer will have access to all meetings;
  - (d) members of Management Board (the Chief Executive and Directors) will be responsible for alerting the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues;
  - (e) the Monitoring Officer will be provided with access to all reports to Councillors;
  - (f) the Monitoring Officer is expected to develop good liaison and working relations with the Standards for England (or any successor body), its Ethical Standards Officers, the District Auditor and the Local Government Ombudsman, including giving and receiving relevant information, whether confidential or otherwise, whether requested or not;
  - (g) the Monitoring Officer will ensure that the Head of the Paid Service and the Chief Financial Officer have up-to-date information regarding emerging issues;
  - (h) the Monitoring Officer will be expected to make or commission enquiries into allegations of misconduct by Councillors;
  - (i) the Head of the Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other probity matters;
  - (j) in carrying out any investigation the Monitoring officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of his/her functions.

- (k) the Monitoring Officer will have access to an appropriate budget (whether corporate or service based) sufficient to enable him/her to seek Counsel's opinion or take appropriate action on any matter concerning his/her functions;
- (l) the Monitoring Officer will be responsible for preparing a training programme for Members of the Council on the ethical framework, for approval by the Standards Committee;
- (m) the Monitoring Officer will report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation, in particular with the Head of the Paid Service and the Chief Financial Officer;
- (n) the Monitoring Officer may defer the making of a formal report under Section 5 of the LGHA 1989 where another investigative body is involved;
- (o) the Monitoring Officer may make an annual report to the Council on the staff, accommodation and resources required to discharge his/her functions;
- (p) the Monitoring Officer will appoint a deputy to act in his/her absence and will ensure that he/she is briefed on emerging issues;
- (q) the Monitoring Officer will make arrangements to ensure good communication with the Clerks to the Town and Parish Councils in the District;

### **Summary of Monitoring Officer Functions**

<b>Description</b>		<b>Source</b>
1.	Report on contraventions or likely contraventions of any enactment of rule of law	Section 5, Local Government and Housing Act 1989
2.	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5, Local Government and Housing Act 1989
3.	Personal appointment of Deputy	Section 5, Local Government and Housing Act 1989
4.	Report on resources	Section 5, Local Government and Housing Act 1989
5.	Investigate misconduct in compliance with regulations made and directions of Ethical Standards Officers	Regulations when made. Directions when made in individual cases. LGA 2000 Section 66 (1) + 66 (6)
6.	Establish and maintain registers of Members' interests and gifts and hospitality	Section 81 LGA 2000 and Model Code of Local Government Conduct
7.	Advice to Members on the interpretation of the Code of Conduct and Local Protocols	Model Code and title of Regulations
8.	Key role in promoting and maintaining high	Statutory Guidance, paragraph 8.20

	standards of conduct through support to Standards for England	
9.	Liaison with Standards for England and Ethical Standards Officers	New ethical framework, practical implications
10.	New ethical framework functions in relation to Town and Parish Councils	Section 83 (12) LGA 2000
11.	Compensation for maladministration	Section 92 LGA 2000
12	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all elected Members	DETR guidance; Council Constitution 2007

3. The Monitoring Officer is to be the primary qualified person in respect of advice on the application of Section 36 of the Freedom of Information Act 2000 in accordance with the Secretary of State's decision of December 2004. Where the Monitoring Officer is absent responsibility for carrying out the functions of the qualified person will fall to the Deputy Monitoring Officer, subject to consultation with the Chief Executive.

#### **Conflicts of Interest**

4. If any member of the Council has concerns about any conflict of interest concerning the duties of the Monitoring Officer they shall:
- (a) raise those concerns with the Head of Paid Service or with the Monitoring Officer directly; and
  - (b) the Monitoring Officer will undertake to review the issue (if necessary taking advice of the Council's Corporate Governance Group) and respond to the concerns with action proposed;
  - (c) such concerns about possible conflicts of interest shall be raised on the understanding that:
    - (i) it is for the Monitoring Officer to determine whether a conflict of interest exists;
    - (ii) that such concerns should not be raised in formal meetings of the Authority without prior consultation with the Monitoring Officer; and
  - (d) in the event that the Monitoring Officer acknowledges that conflict of interest exists, he/she will make arrangements for the matter concerned to be undertaken by the Deputy Monitoring Officer, if necessary after discussion with CGG members.

#### **Review of Protocol**

5. This protocol shall be reviewed every two years or more frequently if necessary.