

# **Monitoring Officer Annual Report 2021/2022**

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## **Monitoring Officer Annual Report 2021/2022**

### **1. Introduction**

- 1.1 The Monitoring Officer's Annual Report summarises the more important matters arising from the Monitoring Officer's work for the Council from 1 April 2021 to 31 March 2022 and comments on other current issues. This report is prepared by the Monitoring Officer appointed by Full Council on 24 February 2021.
- 1.2 Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the fundamental principles of openness, integrity and accountability together with the overarching concept of leadership. In this respect, North Norfolk District Council recognises the need for sound corporate governance arrangements and has put in place policies, systems and procedures designed to achieve this.
- 1.3 The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989 and has a number of statutory functions in addition to those conferred under the Local Government Act 2000 and subsequent regulations governing local investigations into Member conduct. These are outlined in the next section of the report.

## 2. The Monitoring Officer's Work April 2021 – March 2022

Duties	Work undertaken
<p>(a) Maintaining a lawful position for the Council and reporting on contraventions or likely contraventions of any enactment or rule of law including fraud.</p>	<p>The Monitoring Officer during the period 1 April 2021 to 31 March 2022 is a member of the Management Team. Management Team and the Corporate Leadership Team met separately and together.</p> <p>The Council's in house legal team, eastlaw, provides advice and assistance to officers throughout the Council and reports to the Monitoring Officer on any areas of concern in relation to lawfulness and compliance with the Council's protocols and processes. The Monitoring Officer has appointed a deputy.</p> <p>The Monitoring Officer and her staff have attended meetings and provided advice to officers and Members at an early stage, including seeing relevant reports to committee. The Monitoring Officer also requires appropriate recording of delegated authority to evidence compliance with the Constitution.</p> <p>eastlaw assesses and responds to changes in the legal framework. This has included advising and assisting at remote hearings in line with the relevant statutory provisions. During the first two months of this report, restrictions were in place, with reference to the Covid-19 pandemic and attendance at Council meetings. This resulted in there being 'remote meetings' of the Council, with participants attending via virtual video conferencing. The Council had embraced this, and with the support of the Democratic Services and IT Teams in particular, the Council's meetings were broadcast via the NNDC e-Democracy YouTube channel, bringing wider access to meetings of the Authority. As the Covid-19 situation improved, restrictions were lifted. This has had an impact upon the Council. In May 2021, regulations no longer supported remote meetings and the Council returned to in-person meetings. Although the position reverted to the requirement for those participating in a meeting to attend in person, the Council has retained the broadcasting element from the earlier period, thereby enhancing openness, transparency and engagement with local democracy.</p>

In the year 2021/2022, North Norfolk District Council received and processed 605 requests for information under the Freedom of Information Act 2000 and Environmental Information Regulations 2004 access regimes. See **Appendix A**.

The Freedom of Information Act 2000 details the Monitoring Officer as a 'qualified person' to give a reasonable opinion under section 36 of the Act. That section provides an exemption from providing information where there is a likelihood that doing so would be likely to prejudice the effective conduct of public affairs. No such opinion was sought or provided during this period.

Of the 605 requests processed, 8 requests were received for an internal review of either the handling of the request or refusal to disclose particular information. There was also 1 request where the applicant complained to the Information Commissioner's Office.

Under the UK GDPR and Data Protection Act 2018, individuals have various rights in respect of their data, one of which is to make a subject access request ["SAR"]. In 2021/22, North Norfolk District Council received and processed 21 SARs.

The Council has a process for dealing with any reported or alleged data breaches.

In early 2021, the Investigatory Powers Commissioner's Office undertook a remote inspection of the Council's conduct with reference to powers of directed surveillance and Covert Human Intelligence Sources, and any recommendations have been addressed and incorporated into the Council's policy. The Council's Policy relating to the Regulation of Investigatory Powers Act 2000 ["RIPA"] was updated in September 2021. The Monitoring Officer acts as 'gatekeeper' under this policy and provides advice, where necessary to officers applying for RIPA applications. One RIPA application was made, during this period, and was authorised by a District Judge (Magistrates' Court).

The Whistleblowing Policy has been updated. The Monitoring Officer has a key role as a 'responsible officer' to whom disclosures may be made, concerning the public interest, which relate to impropriety or unlawful activity within the Council.

There has been no occasion where the Monitoring Officer had reason to believe that there was a likelihood that there had been or was likely to be a decision that was unlawful or would give rise to maladministration. Accordingly no reports under section 5(2) of the Local Government and Housing Act 1989 have been issued.

<p>(b) Report any findings of maladministration causing injustice where the Ombudsman has carried out an investigation.</p>	<p>The Monitoring Officer reviews any complaints where the Ombudsman has upheld the complaint. <b>Appendix B</b> shows complaints made to the Ombudsman during this period and the outcome. The Ombudsman upheld one of the complaints made in the financial year 2021/2022, with reference only to that part of the complaint which related to delay in the Council’s response. An apology had already been provided and no additional remedy or steps were imposed.</p>
<p>(c) Establish and maintain the Register of Member’s interests and gifts and hospitality.</p>	<p>Members are required to provide a register of interests and keep such up to date. This is the responsibility of each individual Member, but Members are reminded about this requirement quarterly, and in April prior to the Annual Meeting.</p> <p>The Register of Members’ Interests is publicised on the Council’s website. The Registers are available for inspection at the Council’s offices. The Council also holds the Register of Interests for Town and Parish Councils in the district.</p> <p>During some of the year 2021/2022, the country continued to experience restrictions in work, socialising and social events due to the pandemic. The Code of Conduct and guidance sets out the requirements for Members as to gifts and hospitality. There are two entries relating to gifts/hospitality for this period, listed at <b>Appendix C</b>.</p>
<p>(d) Maintain Register of Employees gifts and hospitality.</p>	<p>The Register is updated regularly. The Constitution contains information with regard to accepting, declining and recording gifts and hospitality. For some of the financial year covered in this report, there have been restrictions in work, socialising and events. Whereas in previous years, where the country was not subject to restrictions, there have been around 20 such entries. This financial year shows 11 entries. A copy appears at <b>Appendix D</b>.</p>
<p>(e) Investigate misconduct in respect of District, Parish and Town Councillors under the Code of Conduct.</p>	<p>The Model Code of Conduct had been drafted following recommendations by the Committee on Standards in Public Life. It was designed to protect the democratic role, promote good conduct and safeguard the public’s trust in local government. As with the previous Code, it is based upon the Nolan Principles and aims to be widely adopted nationally by councils.</p> <p>Following its adoption by Full Council, Members received training on the new Code and a copy of the accompanying guidance to the Code. The new model Code of Conduct was adopted by Full Council in July 2021 and any complaints about Member Conduct then fell to be considered under this new Code. The Council’s Protocol on Member/Officer Relations has been updated and is relevant in judging compliance with the Code of Conduct.</p>

	<p>Between April 2021 and March 2022, a total of 23 Code of Conduct complaints were received. Twenty complaints relate to parish/town councils and four relate to the District Council (there was one complaint which covered both tiers). This compares to 20 complaints from the previous year relating to district, parish and town councils.</p> <p>On receipt of a complaint about Member Conduct, the Monitoring Officer conducts an initial assessment to determine if the matter warrants any further action, such as a formal investigation. The Monitoring Officer liaises with the Council's Independent Person in this process.</p> <p>The most common reason for complaints continues to be alleged bullying and disrespect to others. The majority of complaints were assessed as requiring no further action. Sometimes this has been accompanied by some informal recommendations or guidance to improve governance. Two parish council matters were referred for investigation during the year 2021/2022. The Standards Committee did not sit to consider any alleged Code of Conduct breach during this period.</p> <p>The Localism Act 2011 places significant importance on registering interests, especially disclosable pecuniary interests and Members are regularly reminded of the need to keep their register of interests up to date.</p> <p>Members have sought advice in order to comply with the Code of Conduct, including in relation to declaring interests under the Code and matters relating to dispensations. A flowchart and guidance note has been added to agenda papers for Council meetings to assist Members with information about when they may need to declare an interest.</p>
<p>(f) Investigate breaches of the Council's own protocols.</p>	<p>There have been no alleged breaches of the Council's own protocols in the year 2021/2022. The Council was, however, informed of an alleged breach in 2019 which related to the completion of a procurement exemption form. This was subject of a complaint to the police, was investigated, and no criminality was identified. The Council's external auditors also considered this matter and in 2021/2022 published their findings and recommendations within their report for the year 2019/2020. All recommendations have been addressed in the Council's management response to that report.</p>

<p>(g) Provide advice to Town and Parish Councils on the interpretation of the Code of Conduct.</p>	<p>The Monitoring Officer, and her staff, have provided advice to Parish Councils, particularly via their clerks, on the Standards and Code of Conduct Arrangements during 2021/22 via telephone and email.</p> <p>The Monitoring Officer (and her staff) have provided advice and assistance to a number of parishes through interventions to raise standards and deal with complaints.</p> <p>The Town and Parish Forum meets quarterly and consists of key District Council officers, Members, in addition to clerks, parish/town Members and a representative from the Norfolk Association of Local Councils. This provides an opportunity to provide general information relating to the Code of Conduct.</p>
<p>(h) Promote and support high standards of conduct through support to the Standards Committee.</p>	<p>The Standards Committee supported the new Code of Conduct which was then adopted by Full Council. The Independent Person has provided valued input into the Code of Conduct procedures, providing an independent perspective to the Monitoring Officer, and also providing assistance to Members who have been the subject of a complaint.</p> <p>The Independent Person, having reached the end of his tenure, will be leaving the role once the Council has completed its recruitment process for two Independent Persons. It is anticipated that having two, rather than one, Independent Person will provide resilience and added support to the Standards Committee and the Council.</p>
<p>(i) Compensation for maladministration.</p>	<p>There have been no cases of compensation</p>
<p>(j) Maintenance and review of the Constitution.</p>	<p>The Constitution has been revised and updated during the year with the input of the Constitution Working Party. The Constitution has had minor updates, and updates relating to specific sections, but has not had a complete review for around 10 years. This task will need to be undertaken.</p>
<p>(k) Responsibility for complaints made under the Council's Whistleblowing and Anti-Fraud policies.</p>	<p>The Council's Counter Fraud Corruption and Bribery Strategy aims to increase staff and Member awareness and to minimise likelihood of losses to the public purse through fraud and corruption. As with the Whistleblowing Policy, it recognises that staff and Members are important in tackling any wrongdoing and respects confidentiality where concerns are raised. Further internal controls include a requirement that the Council, when dealing with outside organisations, manages its transactions in</p>

	<p>accordance with the Council’s Contract Procedure Rules set out in the Constitution. Where there are exemptions to the usual procurement procedures there is a requirement to keep a proper record of this.</p> <p>The Council’s Whistleblowing Policy was updated. It provides a confidential procedure for employees to report concerns which impact upon the public interest. The Monitoring Officer has not received any whistleblowing complaint in this period.</p> <p>Employees are made aware of the anti-fraud policies and their ability to report through the Council’s intranet and team briefings.</p> <p>The Council dealt with applications for ‘Covid grants’. Anti-fraud checks were completed to avoid payments being wrongfully distributed.</p> <p>There have been no reports of fraud for the year 2021/2022.</p> <p>It is understood that a report was made to the police who undertook an investigation relating to the previous year (2019/2020) concerning an exemption certificate. During the year 2020/2021 the Council was updated on this investigation. No criminality was identified. The Council’s auditors also looked into this matter and the Council was updated during the year 2021/2022. The auditors published their findings and recommendations (within their report for the years 2019/2020). All recommendations have been addressed in the Council’s management response to that report.</p>
<p>(l) Breaches of the Employee Code of Conduct.</p>	<p>Employees are reminded through the Council’s internal communications regarding business practice and ethical behaviour. The Constitution sets out the Employee Code of Conduct and provides links to associated policies and procedures, setting out the standards of behaviour expected by the Council. These policies and disciplinary procedures are managed by the Council’s HR team.</p> <p>In the year 2021/2022, the Employment and Appeals committee has not met to consider any disciplinary matter.</p>
<p>(m) Advice on vires issues, maladministration, financial impropriety, probity and policy framework.</p>	<p>The Monitoring Officer has been consulted on matters, which have potentially significant legal implications.</p> <p>The Monitoring Officer met regularly with the Chief Financial Officer and the Chief Executive.</p>

	<p>The financial statements are subject to a robust governance process through the Committee cycle.</p> <p>The Monitoring Officer and her staff have attended Council and other Committees as necessary.</p> <p>Officers consult the Monitoring Officer regularly on vires and probity issues.</p> <p>The Monitoring Officer works closely with the Chief Financial Officer, the Management Team and the Corporate Leadership Team to ensure probity in the organisation.</p> <p>The Monitoring Officer regularly advises on the legality and/or appropriateness of administrative procedures, in conjunction with the Democratic Services Team.</p>
(n) Exemptions to contract standing orders	<p>7 exemptions (<b>Appendix E</b>) have been recorded and allowed this year, mainly in relation to specialist services where there is only one supplier/no acceptable alternative, an identified and permitted exemption under the Constitution.</p> <p>Contract Procedure Rules and processes relating to exemptions were updated and communicated to officers</p>
(o) actual or potential litigation or claims that would have a significant effect on the entity or a material impact on the financial statements	<p>None identified for the year 2021/2022</p>

### **3. Key Messages**

3.1 The key messages to note from the year are:

- (i) The Constitution has been and will continue to be maintained and updated.
- (ii) The Whistleblowing policy has been updated.
- (iii) A new Member Code of Conduct is has been adopted by the Council and Member training on the new Code was delivered.
- (iv) The Protocol on Member/Officer Relations has been updated in the Constitution

### **4. Looking Forward**

4.1 The key issues for 2022/2023 are as follows;

- Any actions arising from internal and external audits will need review and implementation
- The Council, through its Town and Parish Forum will look to promote adoption of the new Model Code of Conduct
- The local elections are due to take place in May 2023, with prospective candidates events taking place prior.
- The Constitution has not had a fundamental review for 10 years and such will need to be undertaken to ensure it is sufficiently clear and suitable for the present time and future.
- The advertisement and recruitment process of two Independent Persons (under the Localism Act 2011)
- The intended provision of an online updating facility for registration of Member interests
- Anticipated requirement for an Independent member to sit on the Governance Risk and Audit Committee

#### **4.2 Code of Conduct**

4.2.2 A new Member Code of Conduct has been adopted by the authority, based on the Local Government Association Model Code. Training has been provided. Members will continue to receive regular reminders to keep their register of interests up to date. An online facility for register of interest updates is planned.

#### **4.3 Corporate Governance Framework**

4.3.1 The Monitoring Officer will continue to provide an assurance in respect of the Code and the Annual Governance Statement by way of this Annual Report.

#### **4.4 Constitution and Regulations**

- 4.4.1 The Constitution will continue to be kept under review by the Monitoring Officer working closely with the Democratic Services Team and the Constitution Working Party. The Constitution has had interim updates and it is now a suitable time for a more fundamental review.
- 4.4.2 It will be appropriate to continue to remind Members and staff of the importance of compliance with the Council's regulations, as set out in the Constitution and other policy framework documents, and the Monitoring Officer and other staff will provide advice accordingly.

### **5. Overall opinion on the adequacy and effectiveness of the Governance framework**

#### **The Monitoring Officer confirms that she is not aware of;**

- Any breaches of, or deficiencies in, internal control during 2021/2022 in respect of fraud or compliance with relevant legal provisions that could have a significant effect on the entity or a material impact on the financial statements;
- Any actual, suspected or alleged frauds or breaches of legislative requirements during 2021/2022;
- Any excessive or undue pressure to meet financial or operating targets that may unduly influence the actions of either those charged with governance or Management;
- Any actual or potential litigation or claims that would have a significant effect on the entity or a material impact on the financial statements;
- Any circumstances that would call into question the preparation of the financial statements on an ongoing basis.

Subject to the information and areas outlined above, the systems of internal control administered by the Monitoring Officer including the Code of Conduct and the Council's Constitution, appear adequate during the year between April 2021 and March 2022.

Cara Jordan  
Monitoring Officer  
15 September 2022

**APPENDIX A – Information Rights Requests**

Request	Total
Number of Requests (Freedom of Information Act 2000/ Environmental Information Regulations ["FOI" & "EIR"])	605
Number of Internal reviews (FOI & EIR)	8
Number of appeals to the Information Commissioner's Office (FOI)	1
Number of FOI requests where the exemption under S.36 FOI was applied (reasonable opinion of qualified opinion)	0
Number of Subject Access Requests under the UK-GDPR & Data Protection Act 2018	21

## APPENDIX B –Complaints to the Ombudsman

Category	Decided	Decision	Decison Reason	Remedy
Planning & Development	13/04/2021	Closed after initial enquiries	No worthwhile outcome achievable by investigation	
Planning & Development	25/02/2022	Upheld	mal & inj - no further action, BinJ already remedied	
Benefits & Tax	20/04/2021	Closed after initial enquiries	26(6)(a) tribunal Other	
Benefits & Tax	27/04/2021	Referred back for local resolution	Premature Decision - advice given	
Planning & Development	22/07/2021	Closed after initial enquiries	Not warranted by alleged injustice	
Planning & Development	31/07/2021	Closed after initial enquiries	26(6)(b) appeal to Minister	
Adult Care Services	07/03/2022	Not Upheld	no mal	
Housing	26/10/2021	Referred back for local resolution	Premature Decision - referred to BinJ	
Corporate & Other Services	16/09/2021	Referred back for local resolution	Premature Decision - advice given	
Benefits & Tax	03/11/2021	Closed after initial enquiries	26B(2) not made in 12 months	
Benefits & Tax	12/01/2022	Closed after initial enquiries	26B(2) not made in 12 months	

**APPENDIX C – Register of Member Gifts and Hospitality**

<b>Date</b>	<b>Name of Member</b>	<b>Person offering gift or hospitality</b>	<b>Description of gift/hospitality</b>	<b>Accepted or declined?</b>
06.09.2021	Cllr Sarah Butikofer	High Sheriff	Reception - 6 September	Accepted
29.9.2021	Cllr Sarah Butikofer	Flagship Housing Group	Dinner in Suffolk with Overnight Accommodation - Flagship partners conference event	Accepted

**APPENDIX D – Register of Officer Gifts and Hospitality**

<b>Date</b>	<b>Name of officer (where a Chief Officer) or department</b>	<b>Name of person/organisation offering gift or hospitality</b>	<b>Description of gift/hospitality</b>	<b>Accepted or declined?</b>
28.4.2021	Planning Enforcement	Individual	Book £16.99	Accepted
14.7.2021	PA Team member	Cromer Pier	2 tickets for Show on 19 July 2021	Accepted
14.7.2021	PA Team member	Cromer Pier	2 tickets for Show on 19 July 2021	Accepted
26.7.2021	Environmental Health	Individual	Bag of Bonies & Dog Joint Supplements	Accepted
12.9.2021	PA Team member	Norfolk County Council	Chairman's Summer Reception - 4 September at How Hill	Accepted
6.9.2021	PA Team member	High Sheriff	Reception - 6 September	Accepted
29.9.2021	Steve Blatch	Flagship Housing Group	Dinner in Suffolk with Overnight Accommodation for their partners conference event	Accepted
29.10.2021	Property Team	Cromer Pier & Pavilion Theatre Box Office	Cromer Pier Christmas Show - 27 November 2021	Accepted
1.11.2021	Environmental Health	North Lodge Park	Cookery Book Gift (but officer will pay £10)	Accepted
22.11.2021	Human Resources	Birketts Solicitors	Dinner - EDP Business Awards - Thursday, 2 December 2021	Accepted
30.11.2021	Steve Blatch	Holkham Estate	Holkham Estate Meeting – 8 November 2021 and meal at The Victoria Pub	Accepted

**APPENDIX E - Contract Procedure Rules Exemptions granted from 1 April 2021 to 31 March 2022**

<b>Contractor</b>	<b>Type of Work</b>	<b>Amount</b>	<b>Exemption</b>
<b>C3</b>	<b>Contract extension for the provision of Contact Centre Software</b>	<b>£20,386.90</b>  April 2021	<p><b>It is not practical nor efficient to conduct an open tender in the timescales available. Prior commencement has not been possible due to the Covid 19 Pandemic</b></p> <p><b>The extension for 1 year is in line with the PPN that was issued for Covid – 19 procurements</b></p> <p>The Exemption is under 11.1 (a) For the supply of goods or services where there is only one supplier and no acceptable alternative, following consultation with the CFO/Procurement Officer.</p>
<b>Zurich</b>	<b>Council wide Insurance Contract</b>	<b>£300,702</b>  June 2021	<p>It is not practical nor efficient to conduct an open tender in the timescales available. Prior commencement has not been possible due to the Covid 19 Pandemic, discussions are ongoing at a county level to establish what appetite there might be for undertaking a joint procurement exercise.</p> <p>The extension for 1 year is in line with the PPN that was issued for Covid – 19 procurements.</p> <p>The Exemption is under 11.1 (a) For the supply of goods or services where there is only one supplier and no acceptable alternative, following consultation with the CFO/Procurement Officer.</p>
<b>About With Friends</b>	<b>Canteen Services</b>	<b>£15,000</b>  June 2021	<p>The Exemption is under 11.1 (a) For the supply of goods or services where there is only one supplier and no acceptable alternative, following consultation with the CFO/Procurement Officer.</p>
<b>Egbert Taylor</b>	<b>Big Belly Bins x 6</b>	<b>£27,936</b>  Aug 2021	<p>The supplier is the sole UK distributor for the product. As such, alternative suppliers are not available. Other similar products are not compatible with existing management systems.</p>
<b>Your Own Place</b>	<b>Delivery of bespoke</b>	<b>£36,000</b>	<p>For the supply of goods or services where there is only one supplier and no acceptable alternative</p>

	<b>training Tils++ around tenancy sustainment, employability, life skills, mentoring, coaching</b>	<b>March 2022</b>	
<b>Idox Entreprise</b>	Acquisition of new S106 back-office and public facing system known as Exacom.	<b>£66,688</b>  <b>March 2022</b>	<b>Only one supplier of this specific piece of software compatible with Idox Uniform planning back-office system exemption g listed below</b>
<b>Obligations Office</b>	<b>Software compatible with Idox Uniform - specialist providers with considerable experience at S106 data capture.</b>	<b>£17,193</b>  <b>March 2022</b>	<b>Only one supplier of this specific piece of software compatible with Idox Uniform planning back-office system – exemption (g)</b>