

Recommendations re Changes to Monitoring Officer Protocol proposed by Haydon Wick Parish Council

	Proposed Change	Monitoring Officer Comment	Recommendation
1	Insertion of "Confirmation of who the current Monitoring Officer is should be made known to all parties and the means of contact, ensuring confidentiality."	The name of the MO is freely available. Each Parish Council Clerk should make themselves aware of this information and be able to disseminate it among their Members	No amendment
2	Insertion of new para 2a "The Monitoring Officer will only forward a complaint to a panel or investigating officer after liaison and endorsement by the Independent Person"	This suggestion does not accord with current practice at SBC or with the legislation and would be an unlawful fetter upon the MO's role.	No amendment
3	Insertion of new para 2c "The Monitoring Officer will formulate all investigations within an agreed timescale."	Whereas the MO seeks to ensure that investigations are concluded in a timely manner, due to numerous internal and external factors it is not possible at the outset to place time limits within which matters might be resolved.	No amendment
4	Insertion of new para 2F "The Monitoring Officer should refer all complaints regarding Tier 1 & 2 level to another authority with the agreement of the Independent Person"	The meaning on "tier 1 & 2 level" in this context is unclear. However, this appears to remove all authority and discretion from the MO in the investigation of complaints, which would be unlawful.	No amendment
5	In carrying out any investigation (whether under Regulations or otherwise) the Monitoring Officer will have unqualified access relevant to the complaint to any information relevant to the complaint held by the Council and any employee who can assist in the discharge of their functions. In exceptional circumstances access may be declined for legal reasons.	The question of relevance is already provided for by the existing words ".....in the discharge of their functions". There should be no additional fetter on the MO's ability to investigate and it is	No amendment.

		for the MO to decide on relevance, although there would always be scope for discussion on this with those involved.	
6	Proposed deletion of existing para o "The Monitoring Officer will appoint a deputy and keep him or her briefed on emerging issues"	The MO is required, under the Localism Act 2011, to appoint a deputy to act where the MO is unable (through absence of illness) to act in person.	No amendment.
7	Proposed new para q "The Monitoring Officer should deputise where he/she has had a close working relationship, e.g. another officer or councillor	The proposed amendment is unworkable. The MO is required to develop good working relationships with both Members and Officers whilst maintaining the professional integrity of their statutory role. The MO is the advisor regarding how and by whom an investigation or complaint should be conducted.	No amendment.
8	Proposed new para r "The Monitoring Officer will make arrangements to ensure good communication between his/her office and Clerks to Parish Councils <i>and be aware and have knowledge of Parish Council functions and Codes of Practice</i> "	When issues arise, the MO will examine the Constitution and relevant Codes of the Parish Council in question. However, the MO would not ordinarily be expected to maintain constant oversight of those documents pertaining to all 20 Parish Councils in Swindon. That is the role of the Clerk of each individual Parish Council.	No amendment.
9	Proposed new para s "The Monitoring Officer oversees both SBC and Parish Councils."	This is an unnecessary amendment. The position regarding Parish Councils is already stated in law.	No amendment.

10	Proposed new para t “The Monitoring Officer should avoid a conflict of interest by not dealing both with the complaint and advising a Hearing Panel or an investigation officer.”	This is a fetter on the MO’s role. The MO will maintain oversight and will advise throughout.	No amendment.
11	Proposed new para u “The Monitoring Officer should have legal cover and insurance against any arising litigation.”	The MO’s duties are already covered by the employer’s insurance.	No amendment.
12	Proposed new para v “The Monitoring Officers will keep a log/time/title of complaint and publish actions arising from all council and parishes	This information is already maintained by the MO and is set out in the annual report to Standards Committee.	No amendment.