

FINANCE, AUDIT AND RISK COMMITTEE
13 November 2024

PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

TITLE OF REPORT: CODE FOR STATUTORY OFFICERS (HEAD OF PAID SERVICE, SECTION 151 AND MONITORING OFFICERS)

REPORT OF: LEGAL MANAGER / DEPUTY MONITORING OFFICER

COUNCIL PRIORITY: Sustainability

1. EXECUTIVE SUMMARY

1.1 The report updates Members of the Committee on the LLG Code of Practice on Good Governance for Local Authority Statutory Officers¹. It contains a summary of the key objectives, roles and responsibilities.

2. RECOMMENDATIONS

That the Committee

2.1. notes the content of the report and Appendix A, and make any suggestions on future actions, particularly with reference to 7.6 and 7.7 of this report.

3. REASONS FOR RECOMMENDATIONS

3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1 The confirmation regarding the drafting of the Code and liaison meetings was provided to all Group Leaders in January 2024, in the Monitoring Officer's monthly briefings document. This was also discussed subsequently in the Statutory Officer Group meetings and the approach to adopt to communicating the Code to Members and Officers. It was also discussed at the Herts Heads of Legal meeting in September for similar reasons (namely of consistency). The Deputy Monitoring Officer also provided a briefing to Leadership on the Code and its implications on 14 October. It was also considered by the Standards Committee at their meeting in October.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on an Executive key decision and has therefore not been referred to in the Forward Plan.

¹ [code-of-practice-on-good-governance-for-local-authority-statutory-officers.pdf \(llg.org.uk\)](https://llg.org.uk/code-of-practice-on-good-governance-for-local-authority-statutory-officers.pdf)

7. BACKGROUND

- 7.1 This report provides a comprehensive overview of the Code of Practice on Good Governance for Local Authority Statutory Officers, summarising its key objectives, roles, and responsibilities. The Code, developed by CIPFA, SOLACE, and LLG, highlights the importance of collaboration among the Golden Triangle of statutory roles: the Head of Paid Service, Chief Finance Officer, and Monitoring Officer. These roles are central to the governance, decision-making, and legal compliance of a local authority. This report is intended not only for Statutory Officers but also for senior management and elected members, who play an integral role in supporting governance within the authority.
- 7.2 The Code references the 'Golden Triangle' which refers to the three Statutory Officers who ensure the authority's governance structure is sound and compliant. Their collaboration is essential for effective governance, particularly during times of organisational or financial stress.
- 7.3 The Golden Triangle is made up of the following Statutory Officers:

i. Head of Paid Service² (HoPS)

The Head of Paid Service (HoPS), typically the Chief Executive or in North Herts Council's case, the Managing Director, is responsible for overseeing the authority's overall administrative and staffing functions. Under the Local Government and Housing Act 1989, the HoPS has the authority to advise on how the authority's various functions are to be coordinated, staffed, and managed. The HoPS ensures the integration of functions across departments, making sure the organisation operates efficiently. This role also bridges the gap between the authority's Officers and elected Members.

ii. Chief Finance Officer³ (CFO)

The CFO, also known as the Section 151 Officer, ensures the proper administration of the authority's financial affairs. This Officer must ensure that budgets are adhered to and must report if unlawful expenditure or financial mismanagement is likely. In times of financial distress, the CFO may need to issue a Section 114 report, informing the authority that financial risks have reached critical levels. The CFO's role is especially critical in maintaining financial stability, particularly in times of austerity or economic uncertainty.

iii. Monitoring Officer⁴ (MO)

The Monitoring Officer is tasked with ensuring the lawfulness of the authority's actions. This includes compliance with the authority's Constitution, maintaining high standards of conduct, and intervening when there are breaches of the law. The MO plays a key role in ethical governance and ensuring that elected Members and Officers operate within the law. If unlawful action is likely, the MO must issue a Section 5 report to prevent the breach.

- 7.4 The Golden Triangle Officers must collaborate closely, not just with each other, but also with senior management and elected Members, to maintain good governance. Upholding the Seven Principles of Public Life is crucial in maintaining public trust and ensuring lawful governance.

² S.4 LGHA 1989

³ S.151 LGA 1972

⁴ S.5 LGHA 1989

- 7.5 All the Council's Statutory Officers reviewed the original draft Code. The Monitoring Officer (and Deputy) attended the consultation meeting in December, and the Monitoring Officer submitted consultation responses on behalf of all Council Officers involved in January 2024.
- 7.6 The Council may wish to formally adopt the Code which has been endorsed by LLG, Solace, and CIPFA. This code promotes good governance, supports sound decision-making, and ensures legal compliance. By formally adopting this code, the council will not only align itself with nationally recognised standards but also endorse the key principles outlined within it. Adoption would further enhance the transparency and accountability of the council's operations, demonstrating a firm commitment to the principles of integrity and leadership in our governance framework.
- 7.7 Additionally, it is recommended that the Council circulate the Code to all employees and members and integrate its application into the Annual Governance Statement (AGS)⁵. The AGS outlines how the Council complies with the Local Code of Corporate Governance and highlights the measures taken to maintain high standards of governance. Including the Code in this statement would showcase the Council's commitment to keeping governance arrangements under constant review, thus strengthening our compliance and operational effectiveness.

8. RELEVANT CONSIDERATIONS

- 8.1 The Code establishes *seven key standards that* provide a framework for Statutory Officers to perform their duties effectively:

1. Understand Governance

Statutory Officers must have a comprehensive understanding of their roles, those of their colleagues, and the broader governance framework. Their advice should be professional, impartial, and well-informed by the authority's governance needs.

2. Act Wisely

Statutory Officers are expected to exercise their statutory functions with diligence, foresight, and collaboration. Informed decision-making is crucial, and officers must act when governance or financial risks emerge. Officers should work together to ensure decisions are legally sound and financially prudent.

3. Lead Ethically

The Statutory Officers, especially the Monitoring Officer, are responsible for upholding and promoting the Seven Principles of Public Life (Nolan Principles). These principles—selflessness, integrity, objectivity, accountability, openness, honesty, and leadership—should guide the officers' conduct and decision-making. Statutory Officers are also expected to challenge unethical behaviour and foster an ethical culture within the authority.

4. Act Effectively

Effective governance requires robust working arrangements. Statutory Officers must have access to critical information and participate in key meetings.

5. Resource the Roles

Authorities must provide Statutory Officers with adequate resources, including staff, accommodation, and professional development opportunities, to fulfil their duties. Statutory Officers must also ensure they stay up to date with evolving professional standards and legislative changes.

⁵ [AGS 202223.pdf \(north-herts.gov.uk\)](#)

6. Build Resilience

To ensure continuity, Statutory Officers must appoint and train deputies who can step in during times of absence. The deputies must be well-versed in the governance framework and able to maintain the authority's operational integrity.

7. Deliver Sound Decision-Making

The Code highlights the importance of sound decision-making, underpinned by clear, lawful, and implementable advice. Statutory Officers should ensure that elected members are provided with all the necessary information to make informed decisions, and they must be prepared to intervene if governance issues arise.

8.2 Additional Considerations: Times of Difficulty

8.2.1 Statutory Officers have enhanced responsibilities during periods of financial distress, governance failures, or organisational challenges. The CFO may be required to issue a Section 114 report to prevent unlawful financial activity, and the Monitoring Officer might need to intervene with a Section 5 report to stop unlawful decisions/ or enactment of those.

8.2.2 The Code stresses the importance of early detection and intervention, where Statutory Officers should work with professional bodies like CIPFA, SOLACE, and LLG, as well as external auditors and the LGA, to resolve governance issues before they escalate.

8.3 Role of Deputies

8.3.1 The Code strongly encourages Statutory Officers to appoint deputies to ensure that their roles are always covered, especially during periods of absence or organisational transition. Deputies must be well-trained and have the authority to act in the Statutory Officer's absence. This ensures continuity and prevents any lapses in governance oversight.

8.3.2 A key component of staffing structure within the Council is the role of the deputies that are available to assist and cover the roles of the current Statutory Officers, as and when required.

8.4 Risk Management and Monitoring Governance Health

8.4.1 The Code emphasises that Statutory Officers must actively monitor governance health and manage risks across the authority. This includes using performance management systems, peer reviews, and feedback from regulators to continuously assess governance and identify any potential weaknesses.

8.4.2 The Council Constitution, which is regularly reviewed and updated (most recently in July 2024), serves as a vital governance tool by providing clear guidelines for member-officer relationships and setting out the terms of reference for each committee. The Council operates a Leader-Cabinet model, which is further supported by the Overview and Scrutiny Committee and the Finance, Audit, and Risk (FAR) Committee, ensuring robust checks and balances. North Herts Council ensures all reports to committees are accompanied by legal, financial, social value, environment, human resources, and equality implications as per constitutional requirements.

8.4.3 A further component of North Herts Council's governance culture is its Annual Governance Statement (AGS). This statement reviews the effectiveness of the Council's governance, ensuring that processes meet the standards outlined in the CIPFA/SOLACE Delivering Good Governance Framework. The AGS identifies areas for improvement and oversees the implementation of corrective actions, reported quarterly to the FAR Committee.

8.4.4 In addition to the AGS, North Herts Council monitors the governance of its wholly owned and partnership entities through regular reporting and performance monitoring. Governance oversight extends to partnerships such as the Hertfordshire Growth Board, where collective leadership plays a critical role in shaping strategic development across the region.

8.4.5 Risk management is another integral part of the Council's governance arrangements. Through its Risk Management Framework, the Council identifies and addresses both corporate and operational risks, with regular reporting to the FAR Committee. Furthermore, the Council's Code of Corporate Governance (last reviewed in March 2024) ensures that North Herts Council adheres to the principles of integrity, ethical values, and the rule of law, aligning with the Seven Principles of Public Life (Nolan Principles).

8.5 Responsibilities of Senior Management and Elected Members

8.5.1 While Statutory Officers have specific responsibilities, the Code emphasises the importance of senior management and elected members in supporting the governance framework:

- Senior Management: Should work closely with Statutory Officers, ensuring transparency and accountability in decision-making. They must support Statutory Officers in addressing governance issues and ensure that governance frameworks are integrated into everyday operations.
- Elected Members: Councillors must respect the professional advice provided by Statutory Officers to ensure that decisions are made with legal and financial integrity in mind.

8.5.2 Regarding staff and member development, the Council maintains a structured Member Development Programme, focusing on training members to effectively carry out their responsibilities, with compulsory training elements for key roles. The staff development framework encourages continuous learning and personal development, ensuring the Council retains a capable and motivated workforce.

9. LEGAL IMPLICATIONS

9.1 The terms of reference of the Finance, Audit and Risk Committee include, at paragraph 10.1.5 (u) of their terms of reference "to monitor the effective development and operation of risk management and corporate governance, agree actions (where appropriate) and make recommendations to Cabinet" and at 1.1.5 (v) "to review any issue referred to it by the Managing Director, Statutory Officer or Service Director".

10. FINANCIAL IMPLICATIONS

10.1 None.

11. RISK IMPLICATIONS

11.1 Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.

11.2 Following appropriate frameworks and incorporating good practice within our processes help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.
- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” policy do not apply to this report as this is not a procurement or contract.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no financial implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are none directly from the Code as such. However, there are specific legal requirement in respect of Statutory Officer appointments, disciplinary and dismissal processes.

16. APPENDICES

- 16.1 Appendix A – Code of Practice on Good Governance for Local Authority Statutory Officers.

17. CONTACT OFFICERS

- 17.1 Isabelle Alajooz: Legal Manager & DMO: Isabelle.alajooz@north-herts.gov.uk
- 17.2 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer): Jeanette.thompson@north-herts.gov.uk

18. BACKGROUND PAPERS

- 18.1 None other than those referred to/ linked within the report.