

# Risk, Audit and Governance Committee

11 February 2025

Agenda item number 12

## Code of Practice on good governance for Statutory Officers

Report by Senior Governance Officer

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### Summary

A Code of Practice on Good Governance for Statutory Officers has been produced and this report assesses how the Authority meets the recommended requirements.

### Recommendation

To note the Authority's compliance with the Code of Practice on Good Governance for Local Authority Statutory Officers and determine if any action is required.

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## 1. Introduction

- 1.1. A Code of Practice on Good Governance for Local Authority Statutory Officers has been produced by SOLACE (Society of Local Authority Chief Executives), CIPFA (Chartered Institute of Public Finance and Accountancy) and LLG (Lawyers in Local Government).
- 1.2. The Code sets out expectations for the three highest profile statutory roles of Head of Paid Service; Chief Finance Officer and the Monitoring Officer. These roles are carried out by the Chief Executive; Director of Finance (as Section 17 Officer) and Jonathan Golden of Wilkin Chapman, respectively.
- 1.3. The law requires that:
  - the Head of Paid Service or Chief Finance Officer may not also be the Monitoring Officer, to provide balance and independence and avoid any conflicts of interest;
  - the authority is to provide each with such staff, accommodation and other resources as are sufficient, in their opinion, to allow them to perform their duties and
  - there are to be employment protections in respect of these roles.
- 1.4. Through working together, the three roles ensure good administrative, financial and ethical governance of the Authority in the exercise of its functions. For this reason, they are often referred to collectively as the governance "Golden Triangle."

## 2. The Code of Practice

- 2.1. A copy of the Code of Practice can be found in Appendix 1.
- 2.2. The object of the Code is to assist the three officers and their authority in maximising joint working arrangements to best effect, by assisting them in the exercise of their discretion; their relationship with each other, Authority members and key organisations such as external audit.
- 2.3. Members will be aware of the Seven Principles of Public Life (“Nolan Principles”) which apply to all public office holders. The expectations of the statutory officers go further and so seven standards of the Golden Triangle have been produced:
  - i. Understand Governance: roles and responsibilities
  - ii. Act Wisely: A duty of enquiry and the exercise of statutory functions
  - iii. Lead Ethically: The Seven Principles of Public Life
  - iv. Act Effectively: Robustness in working arrangements
  - v. Resource the Roles: Get the tools to do the job
  - vi. Build Resilience: Deputies and development
  - vii. Deliver sound decision making: The outcome of good governance
- 2.4. The Code sets out direct requirements associated with each standard.

## 3. Compliance with the Code

- 3.1. The Code is aimed at local authorities and as Members will appreciate, the Broads Authority has unique governance arrangements which means not all elements of the Code are applicable (e.g. references to political environment).
- 3.2. Officers have reviewed the Code and assessed how the Authority complies with each of the requirements under the seven standards listed above.
- 3.3. Overall, notwithstanding the comment above (para. 3.1), it is considered that the Authority is in conformity with the requirements.
- 3.4. The Authority adopted a Monitoring Officer Protocol in September 2023. This sets out the responsibilities of the role and their working arrangements which includes maintaining an effective working relationship with the other statutory officers. Many of the requirements listed in the Code are covered by the MO Protocol.
- 3.5. The Scheme of powers delegated to the Chief Executive and other authorised officers clearly sets out which officers have powers to make decisions and take appropriate action. This includes specific functions delegated to the three statutory officers.
- 3.6. The adopted Protocol on Member and Officer Relations requires Members to consult with the Monitoring Officer or Chief Financial Officer if they have any concerns of

legality, maladministration, financial impropriety or probity or they have any doubts about an Authority decision being within policy, budget or law. The Protocol also includes a summary of the role of the statutory officers.<sup>1</sup>

- 3.7. The Authority has adopted a Whistleblowing Policy for its employees, volunteers and contractors and a similar one for its members. The Director of Finance has the day-to-day operational responsibility for these policies.
- 3.8. Each year the Authority is required to publish an Annual Governance Statement (AGS) to accompany the Statement of Accounts. The AGS is guided by the “Delivering Good Governance in Local Government Framework” and encapsulates internal and external audit reports as well as the Code of Corporate Governance (CCG). The CCG helps the Authority to develop its governance framework based on best practice and external guidance. The AGS also includes an annual action plan to address any weaknesses identified by internal or external audits.
- 3.9. The Head of Paid Service and Director of Finance are members of the Management Team and this meets on a weekly basis. The Code recommends that the Monitoring Officer should also be a full and active member of the authority’s most senior leadership team. There are significant advantages in Wilkin Chapman providing the Monitoring Officer service. It gives the Authority access to a high level of expertise, advice and scrutiny. It is not practical or necessary for Jonathan Goolden to attend the weekly meetings of the Management Team. There is regular dialogue between the three statutory officers and the Chief Executive and Director of Finance do not hesitate in seeking advice from the Monitoring Officer if they feel it is required.
- 3.10. In addition, the Chief Executive meets the Chair of the Authority on a weekly basis and the Chairs’ Group (comprising all Chairs/Vice-Chairs of committees) meets bi-monthly with key officers to discuss items of mutual interest and concern.
- 3.11. Regarding deputies, there is a Deputy Monitoring Officer (Estelle Culligan) and, whilst there is not currently a Deputy S17 officer, there are processes in place for the Senior Accountant to fill this role once their studies are completed.

## 4. Risk implications

- 4.1. The Authority already complies with its statutory obligations but the Code of Practice is a useful tool to assess if any improvements can be made to how the statutory officers work collaboratively in the governance of the Authority.

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<sup>1</sup> The Broads Authority has four statutory posts but the post of Navigation Officer (required under the Broads Act 1988) does not come within the realm of the governance “Golden Triangle”.

## 5. Conclusion

- 5.1. It is considered that no further action is required. Compliance with the Code will be monitored on an ongoing basis.

Author: Sara Utting

Date of report: 28 January 2025

Background papers: n/a

Appendix 1 – [Code of Practice on Good Governance for Statutory Officers](#)



# Code of Practice on Good Governance for

## Local Authority Statutory Officers

# Code of Practice on Good Governance for

## Local Authority Statutory Officers

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## Introduction

This Code of Practice for Good Governance provides advice and sets expectations for local government's three highest profile statutory roles of Head of Paid Service, Chief Finance Officer, and Monitoring Officer. The aim of the Code is to enable them to effectively work together in what is known as the 'Golden Triangle' to best advise their authority, implement its decisions, and help achieve good outcomes.

These three roles are senior, critical, and influential positions within a local authority, and have collective responsibility for governance. For the individuals concerned, it is our privilege to undertake the work, delivering positive results with a tangible impact. When done well, the postholders can leave an authority with a lasting, inspiring legacy. Best practice in working arrangements will enable the postholders to perform to the best of their ability. However, as recent failures have clearly and repeatedly demonstrated, where the posts do not operate effectively as a team, their advice is not afforded proper respect, where there is a poor culture, or what they have to say is not heard or understood, governance and decision making suffers and the consequences for local communities can be severe.

It is therefore important that these statutory officer posts, their roles and why they exist are understood, respected, and given the support required for their duties to be undertaken to the full. Additionally, it is important for those in, or aspiring to be in, these roles to understand the power that they wield, its potential impact on others and the responsibility that comes with it. The roles have a unique part to play in modelling good behaviour in governance, calling out poor behaviour, and actively demonstrating the Nolan Principles in practice.

There are other statutory officer posts within a local authority with specific responsibilities for governance within their service areas. However, the term 'statutory officers' used within this Code refers only to the three posts of Head of Paid Service, Chief Finance Officer, and Monitoring Officer.

### The roles:

The '**Head of Paid Service**' (referred to directly as 'Chief Executive' in Wales) is the formal designation that forms one of three overlapping elements describing the core role of the chief executive role, being to act as lead advisor to the authority, as managerial leader and in fulfilling the functions of this statutory role. The Head of Paid Service holds the power to formally report to the full authority on their preferred design for the delivery, co-ordination, and integration of the authority's functions. In addition to the responsibilities entrusted to them by the elected members, the Head of Paid Service is statutorily responsible for the numbers, grades, roles, appointment, and discipline of all staff other than chief officers, deputy chief officers and any group's political assistants. They are also chief advisor to the authority and responsible for ensuring the best advice is available to it at all tiers.

The '**Chief Finance Officer**' (often referred to as the 'Section 151 Officer' by a council or 'Section 73 Officer' by some combined authorities) is responsible for the proper administration of the authority's financial affairs. They are responsible for managing the budget and must report to the authority on the robustness of the estimates for expenditure and income within the budget, and the adequacy of the proposed financial reserves. They have a duty to act in respect of unlawful



expenditure or when it appears to them that the authority's expenditure incurred in a financial year is likely to exceed the resources available to meet it.

The '**Monitoring Officer**' is responsible for ensuring lawfulness and fairness in the operation of the local authority's decision-making process. They are responsible for the maintenance and interpretation of the authority's constitution, have a key role in promoting and maintaining high standards of conduct and should (according to the statutory Guidance) also be the 'proper officer' for the purposes of publication of decisions and access to information. The Monitoring Officer maintains a register of members' interests and makes determinations on member's sensitive interests. They have a duty to act when it appears to them that any proposal, decision, or omission by the authority has given rise to or is likely to or would give rise to a contravention of any enactment or rule of law or amounts to maladministration.

The law requires that:

- the Head of Paid Service or Chief Finance Officer may not also be the Monitoring Officer, to provide balance and independence, and avoid any conflicts of interest;
- the authority is to provide each with such staff, accommodation and other resources as are sufficient, in their opinion, to allow them to perform their duties; and
- there are to be employment protections in respect of these roles.





## The Golden Triangle

Through working together, the three roles of Head of Paid Service, Chief Finance Officer and Monitoring Officer ensure good administrative, financial, and ethical governance of a local authority in the exercise of its functions. The statutory officers are expected to advise clearly with impartiality and integrity. This can mean delivering challenging messages, which makes it more important the three work closely together to connect properly with key stakeholders across the authority. For this reason, they are often referred to collectively as the governance 'Golden Triangle'.

The object of this Code is to assist the three officers and their authorities in maximising joint working arrangements to best effect. They must take their responsibilities seriously and apply their thinking in practice to a host of new situations, variables, and grey areas. This Code aims to assist the officers in the exercise of their discretion and their relationship with each other, the authority and its elected members, and key agencies such as the external auditor. Working together is key.

In supporting their members, Solace, CIPFA and LLG have distinct sets of professional standards and guidance to assist the Head of Paid Service, Chief Finance Officer, and the Monitoring Officer respectively. For example<sup>1</sup>:

- The [CIPFA / SOLACE Framework for Good Governance](#) that has been adopted by most local authorities.
- Solace has established the '[Local Government Chief Executives' Development Framework](#)' and Hub as part of the chief executive training and development programme.
- CIPFA has issued a '[Statement on the role of the Chief Finance Officer in Local Government](#)' and an accompanying briefing on '[Balancing local authority budgets and section 114 notices](#)'; and
- LLG has produced a '[Monitoring Officer Protocol](#)', adopted by many local authorities, and published a 'Monitoring Officer Handbook' alongside other relevant materials such as [the 'Code of Governance on the Governance of Council Interests in Companies'](#)<sup>2</sup>, and have developed 'LLG Inspire' to develop the Monitoring Officers of the future.

This Code is recognised by Solace, CIPFA and LLG. Members are expected to uphold the seven standards, which set out requirements for individual officers and their authorities.

The Code should be read alongside [the best value standards and intervention: a statutory guide for best value authorities 2024](#).

**LLG, CIPFA and Solace**

**June 2024**

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<sup>1</sup> Please be aware that some of these documents either require or are in the process of updating.

<sup>2</sup> For committee structure see <https://llg.org.uk/media/u52hzruo/council-interests-in-companies-code-of-governance-committee-structure.pdf>

## The Seven Standards of the Golden Triangle

While the Seven Principles of Public Life, or Nolan Principles, apply to all public office holders and indeed all those in other sectors delivering public services, expectations of the three governance-related statutory officers in local authorities go further. To support these officers, we have set out seven standards of the Golden Triangle alongside more direct requirements associated with each standard. The standards are intended to provide guidance to the three officers concerned, explain the roles more clearly to those operating closely with these statutory officers, and provide context for conversations about the roles, the requirements, and actions to be undertaken.

The seven standards of the Golden Triangle are:

1. Understand Governance: Roles and responsibilities.
2. Act Wisely: A duty of enquiry & the exercise of statutory functions.
3. Lead Ethically: The Seven Principles of Public Life.
4. Act Effectively: Robustness in working arrangements.
5. Resource the Roles: Get the tools to do the job.
6. Build Resilience: Deputies and development.
7. Deliver sound decision making: The outcome of good governance.

# 1. Understand Governance: Roles and Responsibilities

## The Standard

- 1.1 The three postholders must work collaboratively to achieve high standards of corporate governance and uphold the Seven Principles of Public Life. This requires them to hold sufficient expertise in the governance requirements necessary for the good administration of a local authority and to have acquired the skills, knowledge and experience to be able to enquire and challenge effectively, advise on governance and to ensure that their advice is heard and understood in turn by their authority's members and others.

The statutory officers are better able to deliver the intentions and legitimate decisions of the authority where they understand and navigate the political environment in which they operate. To be able to do so successfully, however, that environment is one in which they are freely able to uphold their duties and speak truth to power and where they are sufficiently supported and protected by the organisation to properly, without fear:

- ensure decisions are informed by risk awareness and management;
- conduct robust financial management;
- report on issues of governance, performance, and quality assurance; and
- enforce regulations and codes of conduct.

## 1.2 Requirements of the three statutory officers:

- A) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must understand their own statutory roles and what is required to adequately perform them. They must inform themselves of the role of the other statutory officers and understand the subject matter of governance, their collective part in delivering good governance for their authority and in performing their statutory duties.
- B) They should each ensure arrangements are in place to allow all three to independently perform their roles to the full.
- C) They should prepare and give their advice comprehensively, professionally, and impartially and encourage other officers to do the same.
- D) They must provide mutual trusted support wherever possible but also recognise the separation of powers and duties between the three roles, so that each is able to demonstrate independence, challenge, and balance across the golden triangle to deliver better governance outcomes across the authority.

- (E) They should seek to build and maintain healthy, constructive relationships with each other through regular dialogue, recognising the dangers of conflict within the group and seek to resolve it in a positive way.
- (F) They should also seek to build constructive relationships with other key members and officers in the discharge of their important responsibilities, particularly in respect of the other statutory roles within the authority, such as safeguarding and data protection, and to impart knowledge and training on governance to members of their authority, fellow officers, and others.
- (G) They must seek to understand the political environment in which they operate and the manner in which their respective advice will be received, requiring the building of relationships with the members of their authority, government, business, and community groups in the area.
- (H) The statutory officers should make full use of the other practices and processes available to them to monitor and deliver good governance, including the Code of Corporate Governance as adopted by the authority, the annual governance statement, performance management systems, complaints systems and feedback, the audit framework and other governance arrangements that reflect best practice.

## 2. Act Wisely: A duty of enquiry & the exercise of statutory functions

### The Standard

- 2.1 To be effective and bring about the positive impact and disciplines inherent in the three highest profile statutory roles, the postholders must actively collaborate when decisions are being made; engaging effectively with other officers, to ensure that decisions are informed by all relevant advice, and with members, to ensure that members are appropriately supported to make those decisions.

The duties of Head of Paid Service, Chief Finance Officer, and Monitoring Officer are integral to the governance of a local authority and a part of its strategic leadership. The roles cannot be undertaken effectively where they are seen or treated either as an administrative addition or as secondary to another role. Especially in the case of the Chief Finance Officer and Monitoring Officer, the intention of the statutory duties form the primary function of the roles and responsibilities is to be undertaken by the officers and should be central to all they do.

The Head of Paid Service, Chief Finance Officer, and Monitoring Officer need to have strategic influence and be present when discussions of significance take place. They each, from their individual perspectives, have a personal and organisational duty to enquire about and give advice on the proposals, activities, intentions, actions, or omissions of their authority that may be taking place with significant financial or legal implications. To do otherwise is a dereliction of that duty.

The exercise of the statutory functions, and the reporting duties placed upon the Chief Finance Officer and the Monitoring Officer require them to decide whether circumstances trigger their personal duty to act. Whilst recognising that it is a matter for the individual statutory officer to decide whether or how quickly they must act in the exercise of their statutory duties, it is in the authority's interest for the statutory officers to be enabled to take time to consider the matter, explore what further options or assistance may be available and to seek alternative means to achieve the objectives for which the duties were enacted, rather than exercising their duty immediately.

### 2.2 Requirements

- A) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer should be seen as playing an important role in key decisions and policy making undertaken by a local authority and play a positive and influential role in ensuring the proper functioning and good management of the local authority and its strategic leadership.
- B) The roles of the three statutory officers should be articulated within the local authority's constitution, clearly stating the rights of the Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer to attend meetings, have access to documents, to give advice in writing and in person, and to produce reports for the consideration of their authority's decision-making bodies.

- C) The three statutory officers, or their senior staff, should ensure that they are consulted by other officers across the local authority at an early stage on new policy proposals and on matters which have potential significant financial, legal, or ethical implications. The arrangements should require that the relevant chief officer should always consult with them.
- D) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer should not allow themselves, or each other, to be placed in a position where, in the statutory officer's opinion, workloads or other factors prevent them from exercising their duties, including that of enquiry.
- E) The three statutory officers must have access to support services, networks, and have access to whistleblowing allegations and complaints (unless about them and it leads to a conflict of personal interests) relevant to their functions.
- F) The Monitoring Officer and Chief Finance Officer, together with the Head of Paid Service, must, if they feel able to do so in the circumstances, always seek to resolve issues before they become reportable by exploring legitimate alternatives and avoid issuing a statutory report where permissible.

## 3. Lead Ethically: The Seven Principles of Public Life

### The Standard

- 3.1 Like all public office holders, the Seven Principles of Public Life (sometimes known as the Nolan Principles) apply to these roles and are central to the ethical framework and standards in which they operate.

Consequently, the Nolan Principles are an inherent part of all roles within an authority but, in their leadership and statutory roles, the Head of Paid Service, Chief Finance Officer, and Monitoring Officer have an enhanced set of responsibilities in establishing, promoting, and maintaining the values and behaviours of the authority.

There is a particular responsibility for leadership in governance and, in exercising that responsibility, they should model their behaviour for the rest of the organisation, should lead by example in following the Nolan Principles and call out poor behaviour where they see it. In doing so, however, this does not in any way reduce the application of the Nolan Principles or the responsibility to lead in the same manner for other senior officers, members and those all involved in delivering public services.

The seven principles of public life are:

**Selflessness** - Holders of public office should act solely in terms of the public interest.

**Integrity** - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity** - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability** - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty** - Holders of public office should be truthful.

**Leadership** - Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

### 3.2 Requirements

- A) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must recognise in their working arrangements that they hold a particular responsibility for embedding the Nolan Principles across the work of their organisation and the wider public service system.
- B) The statutory officers should provide the means by which the organisational culture values, develops, and maintains the Nolan Principles across the authority.
- C) The statutory officers are to lead and fulfil their responsibilities in accordance with the Nolan Principles.
- D) The statutory officers must take active steps to assist elected members to understand, promote and act in accordance with the values and behaviours contained in the Nolan Principles and their code of conduct.



## 4. Act Effectively: Robust working arrangements

### The Standard

- 4.1 The statutory officers' duties concern any proposal, decision, course of action or omission of the authority. To fulfil these duties effectively they need to have access to all data, reports, persons, and parts of the organisation that will provide that information, as an early warning system or as they happen, to be able to form their opinions as they are required to do.
- 4.2 **Requirements**
- A) There must be regular meetings between the Head of Paid Service, Chief Finance Officer, and Monitoring Officer (statutory officer meetings), which should include the Head of Internal Audit on a regular basis, to review current and likely future issues that will raise political, financial, legal, staffing or other issues that may impact on their statutory duties. Minutes should be kept of all meetings to evidence when issues were reported and discussed, and any advice given.
  - B) The statutory officers should also make time for discussion between each other and their chief officer colleagues, their deputies and audit to consider financial, legal, constitutional, or ethical implications or other matters that may arise.
  - C) The Chief Finance Officer and Monitoring Officer should be a full and active member of the authority's most senior leadership team.
  - D) The Chief Finance Officer and Monitoring Officer should have a clear and direct relationship to the Head of Paid Service (chief executive), normally through line management or other equivalent arrangement.
  - E) Line management arrangements for the Head of Paid Service (politically or where not the chief executive), the Chief Finance Officer and the Monitoring Officer must permit them the autonomy to fulfil their statutory role.
  - F) The statutory officers should ensure that each other, colleagues, and the authority are kept up to date on changes in professional practices and the laws which are relevant to the carrying out of the authority's activities via training, reports or briefing notes to officers and members.
  - G) The statutory officers should maintain a constructive working relationship with the Head of Internal Audit and the external audit service, including access to internal and external audit reports. The Head of Internal Audit should have unfettered access to the statutory officers, including regular attendance at statutory officer meetings, and regular liaison should take place with the authority's external auditor.
  - H) The statutory officers must have access to brief the Leader (or directly elected Mayor), other leading members of the authority and political group leaders, to discuss options, potential policies, decisions, and the required steps to deliver good governance.

- I) The Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer must, as the statutory officers, have authority: -
- (i) to attend meetings, both formal or informal, between chief officers and elected members, including pre-meetings or briefings with cabinet or committee chairs, and the chief officers should provide advance notice of any financial, procedural, vires or other constitutional issues which are expected to arise;
  - (ii) to attend meetings of the senior leadership team (or equivalent term) with advance notice of the agenda and reports;
  - (iii) to see all documents and information held by or on behalf of the authority, or held by any officer, member, or contractor. (This right does not extend to documents and information held by or on behalf of any political group or which relates to an individual member issue);
  - (iv) to require any officer of the authority, member, related entity, or contractor to provide an explanation of any matter under investigation;
  - (v) to report to the authority, and its executive or committees, including an ability to present written reports and to attend and advise orally;
  - (vi) to have access to one another, to leading members and to the internal and external auditor;
  - (vii) after consultation with one another, to notify the police, the authority's auditors, or other regulatory agencies of concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions; and
  - (viii) to obtain, at the authority's expense, financial, legal, or other advice, either internally or from an independent external lawyer or consultant on any matter which it is believed may be a reportable incident.
- H) The three statutory officers have a positive duty to report illegality, fraud, or corruption to the relevant authorities. In the rare occasion that a statutory officer believes another statutory officer to be guilty of a misdemeanour, relevant governance routes should be followed.

## 5. Resource the Roles: Get the tools to do the job

### The Standard

- 5.1 The authority is required to provide the Head of Paid Service, Chief Finance Officer, and Monitoring Officer with staff, accommodation, and resources sufficient to allow their individual statutory duties to be performed.

All of the statutory officers will need to establish regular access to a set of resources, both from across their authority and externally. This is to enable them:

- to properly understand their roles and the application of their duties;
- to perform those roles across the authority and throughout its various functions; and
- to obtain the requisite knowledge and skills that they consider necessary to fulfil their duties to the various circumstances and matters that may arise.

The Chief Finance Officer is required by legislation to be a member of a recognised chartered accountancy body. Chief Executives and Monitoring Officers should be appropriately qualified and experienced and are advised to be members of an appropriate professional body to provide access to up-to-date resources, peer networking, and training.

This requires consideration by them, and by their authority, of the skillset and knowledge of the individual, and the working arrangements by which they can be informed, participate, and engage across the authority. It also covers the specific resources needed with respect to the duty to report.

### 5.2 Requirements

- A) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must be competent and possess the knowledge and skills required to deliver good governance for their authority and to be able to perform their statutory duties. The statutory officers should be supported by the local authority to undertake continuous professional development and given access to developmental resources to build and maintain that knowledge and skillset.
- B) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must make clear (and satisfy themselves) as to what staff, accommodation and other resources are necessary to perform their duty.
- C) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer should ensure that they have ready access to the resources that they individually consider are needed to support their role and, when those accessing resources from within their own authority, they should ensure that the staff acting in support of their roles are adequately trained and up to date.
- D) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must ensure they and their authority understand and can apply the regulatory, developmental, and ethical requirements that are associated with their roles.
- E) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer should seek to be prudent in stating the staff, accommodation, and other resources they require, acting in



accordance with the duty to achieve best value and to be aware of the wider financial, organisational and political environment within which they operate.

## 6. Build Resilience: Deputies and development

### The Standard

- 6.1 The statutory duties of the Chief Finance Officer and Monitoring Officer are to be performed personally. In doing so they are to make proper provision for where they may be absent or ill by nominating a deputy. The appointment of the deputy is a matter for the individual statutory officer, not the authority.

There is no equivalent requirement for the Head of Paid Service, but it is practical for similar arrangements to be put in place.

Good governance is a wider responsibility, and these three statutory officers should ensure that there is an understanding and a shared approach to good governance embedded within the organisation, with skills developed across the authority. This wider understanding will assist in building resilience.

Equally, the three statutory officers should be mindful of the statutory obligations placed on other officers.

### 6.2 Requirements

- A) The Chief Finance Officer and Monitoring Officer must each nominate a member of their staff to act as their deputy in the event of their absence or illness.
- B) The Head of Paid Service, or the authority, should make arrangements for the deputisation of their role. The role of civil contingencies leadership requires co-ordination of cover twenty-four hours a day.
- C) In nominating deputies, the three statutory officers should ensure that those individuals will have sufficient skill, expertise, and knowledge to perform their roles, that they are sufficiently supported and that they and their supporting officers are provided with opportunities to develop those governance skills, expertise, and knowledge.
- D) All three statutory officers should seek to ensure robust arrangements are made to embed strong governance awareness across the authority and develop staff in a manner which ensures a sustainable approach.

## 7. Deliver sound decision making: The outcomes of good governance

### The Standard

#### 7.1 A focus on decision making is at the heart of the statutory officer responsibilities.

An authority exists as a body of members and its officers, created, and empowered by statute, to make decisions that meet the requirements of statutes, law, and good governance.

Decisions need to be understandable, lawful, and implementable, set out in plain English wherever possible. It is to be recognised they are made in public or are matters of public record, to be based on the principles of transparency and openness. It is the role of the statutory officers to ensure this happens, and to act swiftly where the authority falls short.

To ensure this happens, the statutory officers need to actively collaborate together when decisions are being made, engaging effectively with other officers to ensure that decisions are informed by all relevant advice, and with elected members to ensure that they are appropriately supported to make those decisions in accordance with the Nolan Principles.

At various points, the decisions, or statements of elected members, as decision makers or as commentators, will be at variance with the advice or statements of officers of the authority. The statutory officers should ensure that those within and outside of the authority understand this, that this is a normal and proper manner of conducting public debate and business and that, where the decisions of the authority are understandable, lawful and implementable, it is the duty of the authority, and of the statutory officers, to arrange itself in a manner that delivers those decisions.

Where a company or separate legal entity is effectively under the control of a local authority, or where a partnership body is under the influence of a local authority, and for which the local authority may be the financial accountable body, the legislation and controls for the conduct of local authorities are to also apply to that entity.

It is a responsibility of the statutory officers to understand, and to ensure that their authority understands:

- (a) the need for the company or entity;
- (b) the arrangements for a local authority's interest in the company or entity;
- (c) that the business case for establishing or acquiring them was sufficient;
- (d) that business plans and delivery remain relevant to that business case;
- (e) that the financial and social objectives remain relevant to that business case; and
- (f) that there are proper and transparent governance arrangements for control of the authority's interests, including the identification and management of conflicts of interest, and proper arrangements for scrutiny and accountability.

An external company in which the authority holds an interest must also have independent governance arrangements in place, and the directors of that company must meet their obligations to act on its behalf.

## 7.2 Requirements

- A) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must be satisfied that the authority has appropriate procedures in place, and they should be able themselves to be satisfied that the report writer and decision maker have correctly asked themselves the necessary questions and received sufficient professional advice and evidence to be able to make, and have made, a lawful decision.
- B) All draft reports to the authority and its cabinet or committees for decision should, as a matter of routine, be cleared with the Monitoring Officer and Chief Finance Officer, or their senior staff, to ensure they contain and are informed by the correct content and comments on legal, financial and other relevant matters, including risk awareness and management, statutory considerations such as equality duties and capturing viable alternative options.
- C) The statutory officers should ensure that attention has been paid to resident and stakeholder consultation and engagement in report writing and decision making where appropriate. External perspectives are highly relevant in informing good decision making and preventing injustice.
- D) The statutory officers should engage with elected members and stakeholders and seek to satisfy themselves that the quality of reports and advice has resulted in elected members and other decision makers feeling they have been provided with robust, impartial, appropriate, and clear advice on matters for their consideration.
- E) The Head of Paid Service, Monitoring Officer, and Chief Finance Officer must be aware of the local authority's interests in external companies or bodies and the decisions of those bodies that are to be reserved to the authority as a member or investor. They must ensure that there are reporting mechanisms in place for issues of financial, legal, or ethical concern in relation to those external companies or bodies.
- F) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer should keep up to date with performance against the business plan and on the social and financial returns on investment in respect of those external companies or bodies that the local authority holds an interest in and take appropriate action where this highlights matters of concern. The statutory officers should seek to have a regular and independent review of the governance and existence of the authority's companies and partnership bodies undertaken, having regard where appropriate to the LLG example "code of governance for local authority interests in companies" and the Local Partnerships' ["Local Authority Company Review Guidance"](#).
- G) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer should recognise the need for independent governance arrangements within a company or entity under the control or influence of the authority, and the obligation of a company's directors to act on its behalf.
- H) The Head of Paid Service, Chief Finance Officer, and Monitoring Officer must assist those involved in the affairs of the authority and the authority's companies, bodies, or entities to understand those conflicts of interest that will arise between them from time to time; especially

where an officer or elected member of the authority is also a director of, or working for, the company or body.

- I) The three statutory officers must not hold directorships on authority owned companies but retain their role to avoid conflicts of interest and act in the public interest and in the interests of the authority. Where a statutory officer undertakes work for or on behalf of an external entity or authority owned company, including where acting as an officer of that entity (such as its company secretary), the statutory officer must be mindful of the potential for conflict of interest, their professional standards and regulatory requirements, and at all times act in accordance with proper practices, in the public interest and in the interests of the authority.
- J) Statutory officers should be mindful of the complexities and conflicts of interests that can arise in shared service arrangements with other authorities or public bodies. The statutory officers must seek to resolve those conflicts where they arise and provide support to those involved.
- K) Effective performance management and governance arrangements do not apply only to wholly owned entities for which the authority is directly responsible. The statutory officers should ensure that appropriate review of the effectiveness of the authority's governance, controls and risk management takes place across its partnership and other delivery bodies. Whilst holistic performance management is a task of the wider management team, not just the three statutory officers, the Head of Paid Service, Monitoring Officer, and Chief Finance Officer should be aware of their multi-faceted roles across all directorates, delivery services and partnerships to help bring this about.



## In times of difficulty:

From time to time, local authorities may find themselves in financial difficulty, governance or service failures or suffering the results of a poor culture, bad administration or inadequate standards of decision making. In such situations, it is the role of the statutory officers to work together to flag concerns as early as possible as highlighted within this Code.

Whilst there are often themes of weaknesses that occur in an authority's governance, or culture, to which the Code and other resources seek to assist preventing, they do arise and, be they individual or systemic, they will almost always be multi-faceted and individual to the circumstances that the authority finds itself in.

When this occurs, there are bodies and support mechanisms to rely upon. CIPFA, LLG and Solace offer support to the individual in a sensitive and confidential way. These professional bodies can offer peer support from colleagues who have encountered similar situations. Other bodies that can help include the authority's own auditors, professional advisors, other statutory officers' associations and professional bodies, and the Local Government Association (LGA).

As stated in the ["Best value standards and intervention: a statutory guide for best value authorities"](#) (08/5/2024),

"Government expects local authorities to participate in the sector-led improvement initiatives available to them, to take up any offers of sector support or seek their own bespoke support if they require, and to be open to challenge."

LGA advisors can highlight the assistance available where difficult situations arise.

On occasion, conflict may also arise between the statutory officers themselves. This too is difficult, especially where a statutory officer feels they need to act in respect of wrongdoing of another. Whilst internal mechanisms may help, including access to external audit support where appropriate, again it is through the LGA, professions or access to independent professional advice which may assist the most.

Chief Finance Officers considering issuing a section 114 report should refer to relevant Guidance issued by CIPFA.

Monitoring Officers considering issuing a section 5 report should refer to relevant guidance issued by LLG.



Contributors:



With thanks to:

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