

Standards Committee

A meeting of Standards Committee was held on Tuesday, 20th February, 2007.

Present: Mr F W Hayes (Independent Chairman) Cllr P Baker, Cllr Mrs J Beaumont, Mr T Bowman (Parish Representative), Mrs E Chapman (Independent Member), Cllr J A Fletcher, Mr L W Hedley (Parish Representative), Mrs F Robinson (Independent Member).

Officers: D.E. Bond, M. Henderson (LD).

Also in attendance: No other persons were present.

Apologies: Cllr Sherris, Cllr Teasdale.

1048 Minutes

The minutes of the meeting held on 7th December 2006 were confirmed as a correct record.

1049 Internal Audit Progress Report - end of December 2006

Members considered a report advising the Standards Committee of the work carried out by the Internal Audit Section in six audits that were within the remit of the Committee, during the quarter October to December 2006.

The Committee was also provided with recommendation details and management comments resulting from the audits.

Members were reminded that Internal Audit was an independent appraisal function established by the Council to objectively examine, evaluate and report on the adequacy of internal controls. This role ensured that there was proper economic, efficient and effective use of resources. It also ensured that the Council had adequate accounting records and control systems.

RESOLVED that the report be noted.

1050 Planning Code of Good Practice

The Committee was reminded that, at its previous meeting, it had been provided with a draft version of the Planning Code of Good Practice.

Having considered the draft Code, and comments by the Planning Committee, the Standard's Committee had provided its views.

Those views together with all other comments received, relating to the proposed Code of Conduct, were reported to Cabinet, at its meeting held on 4th January 2007.

Cabinet recommended approval of the Code with the following amendment to a provision regarding pre application discussions:-

'Officers of appropriate seniority should attend and for major or contentious applications Members' involvement should be authorised by the main Committee. As soon as it becomes apparent that a Member ought to become

involved the case officer should submit a report to Committee in the interests of transparency but it may be necessary in the interests of urgency for this to be done verbally. Their involvement should be recorded in any subsequent Committee report. Reports to the Planning Committee shall have regard to any duty of confidentiality in respect of pre-application discussions.'

Cabinet's recommendation to approve the draft code was accepted by Council on 17 January 2007. As a result the Code had been included in the Constitution.

A copy of the agreed Code was provided to the Committee for information.

RESOLVED that the report and approved planning code of good practice be received.

1051 Learning and Development Strategy for Members

Members were reminded that the Committee had considered a draft of the proposed revisions to the Council's Learning and Development Strategy for Members, at its meeting held on 7th December 2007. The Committee had supported and endorsed the Strategy.

Subsequently, at its meeting held on 13th December 2006, the Members' Advisory Panel (MAP) gave further consideration to the Strategy, taking account of additional information it had previously requested.

As a result of this further consideration, MAP suggested a number of revisions to the Strategy.

Members of the Committee were provided with details of the revisions, together with a copy of the proposed strategy which included a guide to Members roles, an action plan illustrating the necessary milestones and targets to be achieved in order to reach Chartered Status and a draft induction programme scheduled to take place post Elections May 2007.

RESOLVED that the report and approved Learning and Development Strategy for Members be received.

1052 A Revised Model Code of Conduct for Local Authority Members

As indicated in the report to the Standards Committee on 7 December 2006 the Local Government White Paper - Strong and Prosperous Communities announced the Government's intention to put into place a clearer, simpler and more proportionate code of conduct for members.

It was explained that the Department for Communities and Local Government had published a consultation paper, seeking views on a draft of a proposed new model code of conduct. The intention was to combine the current four model codes into one consolidated code.

A copy of the consultation paper and the revised draft code was provided to

Members. The consultation paper provided a series of explanatory comments on the revised draft code

The Committee was asked to consider the consultation paper and the draft code, and provide any views or comments it wished to make on both documents, particularly the draft code.

The Committee was also asked to consider and comment on the specific questions posed in relation to the code. These were also provided to Members.

Members discussed aspects of the documents presented to them and particularly those that related to the behaviour of members outside official duties.

The Government's intention was that Councils would adopt a new code of conduct for Members from May 2007.

The Committee noted that the Members' Advisory Panel had considered the consultation and revised code and had made a number of comments.

A copy of the Council's draft response to the consultation paper and revised draft code, including comments made by the Members' Advisory Panel, was circulated to Members.

The Committee agreed that the response reflected its views and agreed that it be forwarded to the Department for Communities and Local Government.

RESOLVED that the draft response as circulated at the meeting be forwarded to the Department for Communities and Local Government.

1053 Ethical Governance AUdit - IDeA Light Touch Health Check

The Committee considered a report setting out the conclusions and recommendations of the IDeA's light touch health check of the Authority's ethical governance arrangements.

The Committee noted that Cabinet, at its meeting held on 15 June 2006, had agreed ethical Governance audit arrangements for 2006/07.

Those arrangements included a further survey of Members (including co-optees), Officers and key partners; a light touch health check facilitated by the IDeA and an accredited team; and a desk top study of existing Council procedures and documents. The latter was ultimately a feature of the IDeA health check process, although other work had also been done outside of this e.g a review of the confidential reporting policy.

Surveys of Officers, Members and key Partners were carried out during September and October 2006.

Statistical details of the returns were provided for the Committee's information. Based on the details and comments made by some of the respondents to each of the surveys, an action plan was being developed.

Members noted that the main focus of this report was the conclusions and recommendations of the IDeA's light touch health check of the Authority's ethical governance arrangements.

The Committee noted that the IDeA had undertaken the light touch health check of the Council's ethical governance arrangements on 13 and 14 December 2006. A copy of the final report prepared by the IDeA health check team, following a prior meeting between the team and Council Officers and the Deputy Leader to discuss the initial draft, was provided.

The report could be broken down into six principal parts (forming part of the IDeA/Audit Commission/Standards Board Ethical Governance Toolkit):-

- Leadership, Behaviour and Style
- Communication
- Relationships
- Accountability
- Management of Standards
- Team Working

The aim of a health check was to test an authority against the above specific elements, using as a benchmark positive and negative indicators in relation to each of the elements.

Each of the six parts of the report had details of what was going well and areas for improvement. There was then a summary of key recommendations.

The Committee was asked to consider the report, and in particular the specified areas for improvement and recommendations, with a view to determining whether, in principle, they could be agreed and used for informing the development of an action plan.

A similar report was presented to the Members Advisory Panel on 5 February 2007 and details of the Panel's views were provided for information.

Subject to this the outcomes of the overall Ethical Governance Audit, in the form of a combined action plan arising from the Officer, Member and key Partner surveys and the light touch health check report would be reported to Cabinet and Council, and subject to agreement, primarily implemented during 2007/08.

In implementing the agreed action plan, reports would be brought back to the Committee, the Members Advisory Panel and other relevant Committees (eg Planning, Select Committees) for consideration of and views on particular elements of the plan. It was suggested that it might also be necessary to report to Cabinet and Council eg if key constitutional changes were proposed.

Members discussed the final report of the health check team. Particular discussion took place with regard to a suggestion that Independent Members of the Committee could arrange to observe certain Council meetings (eg Planning)

and report back to the Standards Committee on Councillor conduct and behaviour. In this regard Independent Members requested details of the Council's diary of meetings for 06/07 and 07/08.

RESOLVED that

1. the recommendations in the IDeA Light Touch Ethical Governance Health Check be agreed in principle and used as a basis for developing and implementing an action plan.
2. the Committee receive further reports regarding specific elements and implementation of the agreed action plan, as appropriate.

1054 Constitutional Update

Members noted that during 2006 a range of revisions and additions to the Constitution were agreed.

The following were highlighted:-

- a revised, extended confidential reporting policy was agreed and publicised;
- new access to information (revised Schedule 12A Local Government Act 1972) procedure rules were introduced; and
- an updated scheme of delegation was developed, based on the experience of using the scheme contained in the version of the Constitution published on 1 October 2005.

A further report would be presented to a future meeting of the Standards Committee to explain developments in relation to the Confidential Reporting Policy.

The following were also included in the Constitution:-

- A guide to Officer delegated decision-making and recording'
- The use of IT equipment by Members protocol;
- The Members' Guide to Information Security;
- The Partnership Strategy for Local Councils; and
- The Council's Consultation Strategy.

During the latter part of 2006 a new version of the Constitution was brought to Members' and Officers' attention prior to publication, updated to reflect the changes referred to in the preceding paragraphs, as well as other changes previously agreed by the Council, such as the new scrutiny arrangements and revised Cabinet Member portfolios.

This proposed new version of the Constitution also incorporated a number of other changes or new additions as follows:-

- By way of a change to the Constitution Scheme of Delegation, the

value threshold

in relation to the granting of new leases or lease renewals, about which a report to

and a decision by Cabinet was required had been increased from £25,000 to

£75,000 and the value threshold for Officer decisions/Cabinet approvals in relation

to freehold disposals had been increased from £250,000 to £500,000.

. A Gifts and Hospitality Protocol.

A link had been included in the Constitution to the Scrutiny Toolkit. The toolkit was continuing to be developed in consultation with Members. It was proposed to include a protocol on attendance and questioning at Select Committees in the toolkit.

Revised Council Procedure Rules (updated in light of the experience gained in applying the previous Rules in practice), and a revised Concordat for Communication and Consultation with Members (amended due to changes to Cabinet Member portfolios and to Members' information provision because of the introduction of E-Genda) had been reported to and agreed by Cabinet (4 January 2007) and Council (17 January 2007).

A new Planning Code of Good Practice had also been introduced following reports to the Planning Committee, Standards Committee, Cabinet and full Council (17 January 2007).

A revised, up to date Constitution had been published and was accessible on the internet via a link from the front page to the "Your Council" page, and also on the intranet.

RESOLVED that the changes to the Constitutional framework be noted.

1055 Local Government and Public Involvement in Health Bill - Ethical Standards

The Committee considered a report that provided details of the Ethical provisions in the Local Government and Public Involvement in Health Bill 'the Local Government Bill').

Members noted that the Local Government Bill had been introduced to parliament on 13th December 2006 and provisions relating to Ethical Standards were contained in Part 9. Explanatory notes indicated that Part 9 proposals

"...are aimed at devolving decision-making on the conduct regime for local authority members to local authorities, with a revised, regulatory role provided for the Standards Board. The measures provide for local standards committees to make initial assessments of misconduct allegations and for review arrangements for those assessments which lead to no action being taken. The provisions also give powers for the Standards Board to suspend a standards committee's role in making initial assessments of allegations, and for the Board to issue guidance to standards committee and ethical standards officers."

In addition, the Notes referred to the fact that:-

“... provision is made for decisions in respect of local authority posts subject to political restrictions to be undertaken by standards committees rather than, as now, by the Independent Adjudicator, and to enable the Secretary of State to issue an order to allow the maximum pay of political assistants to be linked to a point on a relevant pay scale specified by the order.”

It was explained that Clause 131 of the Local Government Bill intended to rectify the issues raised in the Livingstone High Court case and provided that the principles governing the conduct of members and the provisions of the code were not limited to members' conduct in their official capacity.

Clause 132 of the Local Government Bill substituted the authority's Standards Committee for the Standards Board in respect of receiving and assessing written allegations of failure to comply with the Code of Conduct and deciding whether to investigate, refer to the Board or take no action.

If the Committee decided to take no action the person who made the allegation was able within 30 days of receiving the notice of the decision, to request the Standards Committee to review its decision.

Under the Clause (132), the Standards Board would have power to suspend a Standards Committee's powers, until such time as the Board decided otherwise, and any referrals of allegations to the Standards Committee concerned would then have to be redirected to the Board or the Standards Committee of another Authority.

Clause 134 of the Local Government Bill provided that a Standards Committee must be chaired by a person who was not a Member or Officer of any relevant authority (ie by an Independent person).

Clause 138 extended the scope of the exemptions to the restrictions on disclosure of information obtained by Ethical Standards Officers.

Clause 139 gave Ethical Standards Officers powers (under Sections 64 and 65 of the 2000 Act) to provide copies of their reports to Standards Committees (as opposed to just Monitoring Officers as at present).

Clause 140 provided that a Monitoring Officer may inform any Member (including Co-opted Members) or Officer of the Authority of the outcome of an Ethical Standards Officer's investigation into a misconduct allegation. He/she may also provide those persons with a copy of the Ethical Standards Officers report.

Where a matter had been referred to a Monitoring Officer by a Standards Committee, Clause 141 provided power for the Secretary of State to make regulations to enable the Monitoring Officer to refer back any matters referred to him.

Clause 142 of the Local Government Bill extended powers enabling a Standards Committee, where it considered that the action it could take against a

person was insufficient, to refer the case to the Adjudication Panel.

Clause 147 provided a specific exemption from the Data Protection Act 1998 as follows:-

“Personal data processed for the purposes of discharging any function which was conferred by or under Part 3 of the Local Government Act 2000 on

- (a) the Monitoring Officer of a relevant Authority
- (b) an Ethical Standards Officer, or
- (c) the Public Services Ombudsman for Wales

were exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of that function.”

As a result of Clause 149 of the Local Government Bill, the granting and supervision of exemptions from political restriction would become the responsibility of Standards Committees. The relevant provisions of Clause 149 were provided to Members.

Members noted that the Government’s aim was that the Local Government Bill would become law in the Autumn 2007. Subject to that, the new regime for conduct of local authority members, involving a more strategic role for the Standards Board and a greater gatekeeper role for Local Standards Committees, would then be introduced in April 2008. In between April 2007 and April 2008 consultation would take place on, for instance, Government and Standards Board guidance relating to the new regime.

RESOLVED that the report be noted.

1056 Community Calls for Action

The Committee had, at its meeting held on 7th December 2006, considered a report providing details on features of the Local Government White paper and provisions within the Police and Justice Act 2006 relating to Community Calls for Action (CCFA)

Following on from this the Committee was now provided with a report that detailed provisions in the Local Government and Public Involvement in Health Bill (‘the Bill’) mainly relating to Overview and Scrutiny Committees.

It was explained that a new section 21A of the Local Government Act 2000 (‘the 2000 Act’) was to be introduced. The new section would provide that Executive arrangements by a local authority must include provision which would allow a member of an authority to refer a matter to the relevant overview and scrutiny committee.

The power for a member to refer matters to overview and scrutiny committees related to the activities of the local authority other than crime and disorder matters and other matters to be specified by order by the Secretary of State.

The Committee noted that Clause 166 of the Bill provided that an authority could make arrangements for an individual councillor to exercise functions of the authority in relation to his/her ward. Clause 93 would allow overview and scrutiny committees to require councillors, exercising those functions, to attend before them and be questioned on such matters.

It was again noted that the Police and Justice Act provisions were at the forefront of the CCFA mechanism and were the most developed. A briefing note about those provisions was provided to members, however the proposed Regulations and guidance were not available at this stage. The proposals were expected to be rolled out and become live in April 2008.

Members noted that the most obvious distinction between the two sets of provisions at this time, was that the Police and Justice Act arrangements allowed members of the public to refer their crime and disorder issues direct to an authority's executive (and the executive must consider the matter), if a ward councillor choose not to refer that matter to the authority's crime and disorder committee. The Local Government Bill provisions did not provide the same opportunity.

The timetable for the Local Government Bill was for Royal Assent in the Autumn 2007. The Government aimed to develop supporting CCFA guidance for consultation from April 2007 onwards. CCFA powers would then be introduced post April 2008.

RESOLVED that the update be noted

1057 Commendations and Complaints - Second Quarter of 2006/07

Members considered a report providing details of Commendations and Complaints for the period October to December 2006.

The two greatest areas of complaints for the second quarter were:-

17% - Children and Adults Social Care Services, and
26% - Tristar including crime and anti-social behaviour and repairs administration.

This was consistent with the position in relation to the first quarter's complaints.

The two areas where the highest number of commendations were received were

11% - Community Protection, including consumer advice
25% - direct services, including street cleaning, customer and horticultural services

Direct services were also one of the areas where the highest number of commendations were received during the first quarter.

Overall, for the first half of 2006/07, when compared to the first half of 2005/06, Complaints were down (a reduction of approximately 25%) and commendations had risen (by approximately 5%).

It had been explained at the Committee's meeting held on 24 August 2006 that the Commendations, Comments and Complaints Policy was to be reviewed. That review was almost complete and the proposed, revised Policy would therefore be reported to a future meeting of the Committee.

RESOLVED that the information be noted.

1058 Information/Discussion Items

The Committee received and considered the following information:-

- Case Tribunal Decision – Case Alert 2
- High Court Decision – Case Alert 3
- Update – No Breach of Code of Conduct – Livingstone
- Standards Board Guidance – The Implications of Collins J. Judgement in the
Livingstone Case
- Court of Appeal – National Assembly for Wales v Condrón and Another – Bias
- Update – Government – Bias
- Smith v Kvaerner Cementation – CofA [2006] 244 – Judicial Bias and Human
Rights
- Standards Board – Statistical Update and Current Trends – January 2007.

RESOLVED that the information be noted.

1059 Standards Committee Forward Plan 2006/2008

The Committee was provided with an updated version of the Committee's Forward Plan for 2005/2007.

RESOLVED that the plan be noted.