Ethical Governance

Wirral Council
Audit 2008/09
Date

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Summary report

Introduction

1   Confidence in local democracy is a cornerstone of our way of life. It can only be achieved when elected and co-opted members of local authorities are seen to live up to the high standards the public has a right to expect from them.

2   In recent years there has been an increased emphasis on standards and conduct in public life. The findings of the Committee on Standards in Public Life, the Local Government Act 2000 and the introduction of the Standards Board for England (SBE) are all factors in the current weighting being given to the need for strong ethical governance in local councils. This was also reinforced by the Chief Executive of the SBE in his November 2006 letter to local authority Chief Executives where he stressed the roles of Chief Executives and leading members in influencing organisational culture and supporting the ethical environment.

3   High ethical standards are the cornerstone of good governance. They are an integral part of good corporate governance arrangements and can lead to increased confidence in local democracy and better public services. Setting high ethical standards is an important building block for councils in developing their community leadership role and improving services to the community. Councils are also becoming involved in increasingly complex partnerships and poor ethical standards may adversely affect these arrangements.

4   Ethical governance is an area of great interest to the national and local press, particularly when things go wrong. Local authorities and individual members face a number of risks, including investigation for alleged breaches of the Code of Conduct, sometimes leading to the disqualification of members, loss of confidence and trust in individual members, councils and local democracy and poor decision making.

5   On average nationally, one member a week was removed from office in 2006. Other sanctions have included formal censure and suspension from using council facilities. Issues included bullying behaviour, misuse of council resources, bringing a council into disrepute and using the position as a member for personal gain. The high number of disqualifications has now reduced but it is important that the spotlight stays on high ethical governance standards. The economic recession, for example, has placed added pressure on members and officers to proactively manage the Council's finances and other resources, particularly where costs and demands for services are increasing.

6   One of the common aspects of governance failures is not the absence of frameworks, controls and arrangements but the absence of appropriate behaviours and values amongst members and officers. This audit therefore looks at Wirral Council's compliance with statutory requirements and also at behaviour, culture and values.

Background

7   This work is based on the requirements of Part III of the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007. Every local authority is required to adopt a Members' Code of Conduct that sets out the rules governing the behaviour of its members. A new model Code of Conduct was issued by the government in April 2007. Wirral Council adopted the revised Code in its model form in May 2007. The Code covers areas of individual behaviour such as members not abusing their position or not misusing the Council's resources. In addition, it includes rules governing disclosure of interest and withdrawal from meetings where members have relevant interests. Members must also record their financial and other interests.

8   All councils were required to establish, by May 2002, a Standards Committee to promote and maintain high standards of conduct for members. One of their roles is to create a sense of 'ethical well-being' in the authority. A new locally based system for dealing with complaints about local authority members' conduct came into force in May 2008. The new framework gives Standards Committees responsibility for the initial assessment of all allegations that a member of their authority may have breached the Code of Conduct. It also gives them responsibility for any subsequent investigations, decisions and sanctions. This is except where cases cannot be handled locally because of their highly sensitive nature.

9   Wirral Council has 66 councillors. The Conservative Group is the largest party with 24 seats; Labour has 21 and the Liberal Democrat Group has 20, with 1 Independent councillor. A Leader and Cabinet of Labour and Liberal Democrat Councillors govern the Council. The governance arrangements also include ten Overview and Scrutiny Committees and a Standards Committee whose terms of reference cover the model framework.

10   The Council's net revenue budget (2008/09) was £298.7 million. Services are delivered by seven departments: Adult Social Services; Children and Young People; Corporate Services; Finance; Law, Human Resources and Asset Management; Regeneration; and Technical Services.

Audit approach

11   The aim of this work is to assess how far:

- the Council complies with Part III of the Local Government Act 2000 and the relevant sections of the Local Government and Public Involvement in Health Act 2007;

- the Council ensures that the Standards Committee has access to the right information and support to enable it to do its job properly;

- members and officers understand and are aware of ethical issues;

- members abide by the Code of Conduct; and

- members and officers have training needs in this area.

12   This work covers four key lines of enquiry:

- Balancing rules and trust: supporting the genuine motivation of people while ensuring that those who do breach the rules are challenged.

- Independent overview: monitoring, developing and promoting the Council's approach to the ethical agenda and how far this is delivering improvement.

- Leadership: encouraging good conduct in the Council, including in relation to the equalities and diversity agenda.

- Transparency: ensuring transparency in the way that the Council carries out its business.

13 The work comprised:

- an electronic survey of members, senior managers and Democratic Services officers in the Council; and

- an assessment of how well the Council's ethical governance arrangements are working. - including document review, interviews and focus groups.

Main conclusions

14 The Council has a good understanding of the key ethical governance issues that it faces and the action needed to promote and maintain standards. Positive features include:

- the Members' Code of Conduct is generally operating effectively and the behaviour of members and officers is mostly appropriate;

- members and officers work well together to achieve the Council's common goals;

- the membership of the Standards Committee complies with the legislation - the Chair and Vice-chair are independent members;

- the Council has a good approach to promoting equality and diversity in its policies and services;

- both the Leader and Chief Executive are considered to be role models in promoting the ethical agenda; and

- the Council is taking active steps to encourage good conduct by members and officers and to improve transparency in the way that it carries out its business.

15 Although the survey findings are encouraging - and more positive than the average in many areas - they also pinpoint issues where further work and clarity is needed. In particular the findings suggest that some members and officers could be helped to develop a better understanding of ethical governance in the Council. For example, members and officers have different perceptions about how members abide by the Code of Conduct and the extent to which communication between them is constructive. The survey results suggest that greater communication about the ethical framework and a wider understanding of each other's role would strengthen working relationships and improve delivery of the ethical agenda.

16 Other areas for development include:

- raising the profile of the Council's Standards Committee through proactive work and ensuring that all members of the Committee have access to the right information to carry out all its functions effectively;
- reviewing the level of training for members and officers on the ethical agenda;
- creating a culture in which members and officers can:
  - make allegations of misconduct by a member or an officer without fear of reprisal and be confident in the action they should take;
  - challenge member recommendations and council decisions to improve openness and transparency; and
  - be assured that inappropriate behaviour is suitably dealt with.
- clarifying the use of council resources for political and non-political purposes;
- raising trust and confidence in local government and democracy; and
- increasing awareness of the Whistleblowing Policy and re-enforcing assurances that reporting through this mechanism can be done without fear of reprisal.

17 The Council also needs to consider whether it is satisfied with results that are more generally positive than the other comparator councils or whether it aspires to higher standards.

18 An action plan has been agreed with council officers (Appendix 2) to address the issues arising from this review. The report and action plan are presented to the Standards Committee to agree the content and comment on the action plan before being finalised. The report, survey results and action plan provide the members of the Standards Committee with a baseline assessment of where the Council is now and a positive framework for strengthening ethical governance arrangements to result in increased confidence in local democracy and better outcomes for local people.

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Balancing rules and trust

19 The Members' Code of Conduct is generally operating effectively. Our surveys show that around 90 per cent of members report that they 'always or usually' abide by the Code. Officers' perception is much less - at 67 per cent - although a third of officers don't know.

20 The behaviour of members and officers is mostly appropriate and consistent with findings from other surveys. Around 85 per cent of members, compared with 68 per cent of officers report that members perform their duties with honesty, integrity and impartiality. A small number of complaints about members' behaviour also suggest that the Code is generally working effectively. Only in isolated instances have allegations been made that - if substantiated - could reasonably be regarded as behaviour bringing their office or authority into disrepute.

21 The relationship amongst members is similar to that in other councils. Forty nine per cent of members say that members always or usually trust each other and 39 per cent say 'sometimes'. Sixty eight per cent of members say that they treat other members fairly. Occasionally insulting comments are made by members about other members in a public meeting. It is important that members recognise a balance between proper, political debate and forthright exchange of views and how their behaviour is perceived.

22 The behaviour of officers is generally appropriate and well regarded. The Council has approved a code of conduct for officers. This code covers honesty, integrity, impartiality and objectivity; accountability; respect for others; personal interests; openness; and the use of the internet and electronic mail facilities. Our survey found that 88 per cent (above average) of members and 96 per cent (average) of officers say that officers perform their duties with honesty, integrity, impartiality and objectivity. Eighty four per cent of officers say that officers always or usually trust each other. Where behaviour is allegedly not appropriate action is generally taken, including internal or external investigations.

23 The Council has integrated the Members' Code of Conduct in its equality policies and schemes. The Code - in line with the model Code and the ten general principles of public life - requires members not to do anything which may cause the Council to breach any of the equality enactments. They should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. These principles are reflected in the Council's Equality and Diversity Policy and Strategy.

24 The trust between members and officers is about average. Both groups agree on how fairly officers treat members but how members treat officers, uphold their impartiality and listen to their advice is perceived differently. The Council has adopted a protocol on member and officer relations. In particular it defines the roles of officers and members, officer advice to party groups, briefings for Cabinet and committees and members' access to information. Our survey also found that:

- 63 per cent of members and 59 per cent of officers say that officers and members trust each other but a quarter say only 'sometimes';

- 88 per cent of members compared with 76 per cent of officers say that members always or usually listen to the advice of officers;

- 85 per cent of members compared with 76 per cent of officers say that members treat officers fairly; and

- 88 per cent (above average) of members and 76 per cent of officers (above average) say that members always or usually uphold the officers' impartiality.

25 Appropriate confidences are mainly considered to be kept by officers and members but to varying degrees. Seventy five per cent of members compared with 59 per cent of officers say that they are always or usually kept by members. Seventy six per cent of members and 84 per cent of officers say that they are kept by officers. However, occasional leaks of confidential information to the media do occur. In certain circumstances such disclosure of, for example, a potential development can create a risk of public anxiety and compromise negotiations with the Council.

26 Members and officers work well together to achieve the Council's common goals. But, again, working together and amongst each other are perceived differently:

- 64 per cent (above average) of members and 79 per cent (average) of officers say they work well together to achieve common goals, but 31 per cent of members say 'sometimes';

- 44 per cent (below average) of members and 52 per cent (above average) of officers say that members always or usually work well together, but 44 per cent of members and 32 per cent of officers say 'sometimes'; and

- 70 per cent (average) of members and 90 per cent (average) of officers say officers work well together to achieve common goals.

Whilst members will have differing political opinions and priorities a high level of collaboration means that it is more likely that councils will improve outcomes and the quality of life for local people.

27 Members are not totally convinced that they make allegations of member or officer misconduct appropriately or can do so without fear of reprisal. Our survey found that understanding was similar to that in other councils and that always or usually:

- 61 per cent of members make allegations of member misconduct appropriately;

- 56 per cent make such allegations without fear of reprisal but 23 per cent don't know and

- 54 per cent of members consider that they can make an allegation of officer misconduct without fear of reprisal but 32 per cent don't know.

28 These findings are consistent with how confident officers consider that they can make an allegation of member misconduct without fear of reprisal. Officers are more confident (79 per cent) about making an allegation about misconduct by another officer than by a member making such an allegation against another member (56 per cent). However, 34 per cent of officers don't know if they can make an allegation of member misconduct without fear of reprisal.

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Recommendation

R1 Emphasise to members and officers that they can:

- make allegations of misconduct by a member or an officer without fear of reprisal; and

- be confident in the actions they should take as individuals if they become aware of such misconduct.

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Independent overview

29 The Standards Committee is operating appropriately and members are keen to develop arrangements to ensure it operates more proactively. Guidance, information and training are provided for councillors on the Committee but have been limited for Independent members.

30 The membership of the Standards Committee complies with the requirements of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. It has 12 members including 3 independent members - 2 of which are the Chair and Vice-chair of the Committee - and 3 members from each political party. Independent members are important for increasing public confidence in local government. They bring a wider perspective from their own experiences and can provide a clear signal that the Committee acts fairly, impartially.

31 Independent members were appointed following an advertisement in a local newspaper. In addition vacancies were drawn to the attention of local people who receive the Wirral Governor newsletter, are on the Older People's Parliament distribution list and are members of the Wirral Council for Voluntary Services and the Chamber of Commerce. Applicants were asked to declare any political interests - this is good practice and helps to increase public confidence in the fairness of the Committee. They were interviewed by the spokespersons of all three political parties and the Council approved their recommendation. The recruitment process helps to attract members with a keen interest in standards in public life and a wish to serve the local community and uphold local democracy.

32 The terms of reference of the Standards Committee are included in the Council's Constitution, which is published on its website. They include:

- promoting and maintaining high standards of conduct by members;

- assisting them to observe the Members' Code of Conduct, advising the Council on the adoption or revision of the Code and monitoring its operation;

- advising, training or arranging training for members on the Code;

- dealing with reports from a case tribunal, the Monitoring Officer and Local Government Ombudsman; and

- monitoring and reviewing the operation of whistleblowing procedures.

33 The terms of reference of the Standards Committee are set out in full at Appendix 1. The Constitution also details the terms of reference and membership of the Standards Initial Assessment, the Standards Review and the Standards Hearings panels. It specifies the assessment criteria - for considering whether or not a complaint should be investigated or no further action should be taken - and

the protocol for dealing with complaints of an alleged breach of the Members' Code of Conduct.

34   The Committee's governance role also includes, for example, receiving reports from the Local Government Ombudsman and advising the Council on the appointment of independent members. Giving the Committee wider-reaching responsibilities is a positive step. It also provides a workload which is regular and interesting and should aid the retention and recruitment of independent members.

35   Members of the Standards Committee demonstrate a commitment and willingness to maintain and enhance ethical standards across the Council. But much work needs to be done to raise awareness of the Committee. Opportunities exist for development particularly in explaining how its role supports the ethical agenda and ensuring the required standards of behaviour by members and officers. Our survey shows that more than three quarters of officers and members say that the work of the Committee adds value to the Council:

- 39 per cent of members and 52 per cent of officers don't know if it is making a positive difference to the way people outside the Council view the organisation; and

- 22 per cent of members and 40 per cent of officers don't know if the Standards Committee or Monitoring Officer monitors member behaviour against the Members' Code of Conduct.

36   Further opportunities exist for the Committee to be proactive. It could, for example, undertake an assessment of standards in the Council and consider the effectiveness of the codes of conduct and complaints and whistleblowing policies. Its work has largely been to receive officers' reports and - in a few instances - to consider alleged inappropriate behaviour by members. However, the Chair is currently attending Council and committee meetings to observe member behaviour. This is a positive step. It is intended that the Monitoring Officer will discuss with the Chair if any action is needed to improve compliance with the Code. Periodic ethical audits highlight any systemic weaknesses.

37   The Committee does not have a workplan, nor does it produce an annual report on the ethical health of the Council and on its work. It does not consider how, for example, the work of internal audit and scrutiny and select committees, reports on complaints and whistleblowing cases and from external bodies like the Audit Commission, could inform its own agenda. A work programme prevents ethics slipping off the agenda. The Committee can provide a useful structure for learning from the experiences and cases in other authorities. In particular it can provide support to officers when faced with a highly politicised environment.

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> **Recommendation**
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> **R2** Raise the profile of the Standards Committee by:
> - developing a work programme and action plan;
> - undertaking an annual assessment of standards of conduct of members and officers and taking action as appropriate;
> - learning from and using the findings of the allegations it receives, reviews, determinations and reports from the Local Government Ombudsman, internal and external audit, complaints and whistleblowing to plan and evaluate its work; and
> - communicating its work to a wider public.

38 Standards, codes of conduct and ethical protocols are regularly reviewed or updated following new legislation or revised national guidance. The terms of reference of the Standards Committee were amended in July 2008 and the member and officer protocol was amended in 2007. The revised Members' Code of Conduct allows greater participation by members with prejudicial interests. Other changes included:

- allowing the disclosure of confidential information if it is reasonable and in the public interest to do so, and if disclosure is made in good faith and in compliance with the reasonable requirements of the Council;

- strengthening the obligation to have regard to any relevant advice given by the Monitoring Officer and the Section 151 Officer; and

- adding a new personal interest where it is likely to affect the interests of any person from whom at least £25 worth of gift or hospitality has been received.

39 The Standards Committee has a limited role in ensuring that members and officers receive appropriate guidance, including training and information on the requirements of the ethical agenda. One of its terms of reference is 'to advise, train or arrange to train councillors' but training and guidance on ethical behaviour are provided by officers. Members have received written statements and guidance of how they should perform their duties, the ethical standards to which they are required and expected to adhere and examples of possible transgressions that could precipitate problems. A commentary on the Code is included in the Members Handbook.

40 Members of the Standards Committee are provided with guidance issued by the SBE. Training has included a presentation from the Monitoring Officer, a question and answer session and a seminar on constitutional issues and the Member's Code of Conduct. The Chair of the Standards Committee and the party spokespersons have attended the SBE Annual Conference. However, our survey found the majority of officers don't know if guidance and training on ethics and conduct is mandatory or included in induction for members. Similarly, half of members don't know if such guidance is included in induction for officers.

41 Training and guidance for independent members of the Standards Committee has been limited. As a result they are not as well-informed and supported as they could be to fulfil their roles effectively.

Recommendation

R3 Review the level of training for members and officers on the ethical agenda and:

- use information obtained through feedback and monitoring processes of individuals/groups/panels/committees and from other sources to plan training, development and support for individual members, groups of members and members of the Standards Committee and for officers; and

- introduce for independent members an induction programme that includes training on the members' and officers' codes of conduct and the function of the Standards Committee and attendance at meetings of, for example, Cabinet, overview and scrutiny, planning and licensing committees and the full Council.

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42 The Council has the resources needed for carrying out local investigations supported, where appropriate, by an external, independent case officer. Processes are in place to:

- receipt and assess complaints such as the alleged inappropriate behaviour of a member;

- review decisions to take no action over complaints;

- consider the Monitoring Officer's final investigation reports considering determination hearings; and

- consider whether any allegation of misconduct should be referred to the SBE for investigation.

Leadership

43 Overall members are seen as a focus for positive change. Sixty six per cent (average) of members and 51 per cent (above average) of officers say so although 29 per cent of members and 27 per cent of officers say 'sometimes'.

44 An integrated approach to equality, diversity and human rights is reflected in decision making, policies and practices for both service delivery and employment. The Council is developing a new Single Equality Scheme and action plan, which incorporates all six equality strands. It uses its statutory duties well to promote equality. Equal opportunities and human rights implications are considered in reports to members. Work is in progress to achieve level 3 of the Equality Standard for Local Government ('achieving') and the Council is due to be externally assessed in March 2009.

45 Progress towards equal opportunities in employment is demonstrated by the Council's workforce profile. The percentages of the top-paid 5 per cent of staff who are women or who have a disability are amongst the highest 25 per cent of councils. However, top earners and all employees from an ethnic minority community and employees with a disability are below the medians. Our survey also found that:

- over 90 per cent of members and officers say that the Council seeks to meet the needs of its diverse communities;

- 69 per cent of members, compared with 81 per cent of officers say that the Council seeks to attract officers from diverse backgrounds, although almost a quarter of members don't know; and

- 73 per cent of members and 81 per cent of officers say that the Council ensures that staff are appropriately skilled to meet the needs of its diverse communities.

46 Members and officers have a different perception and understanding about guidance that is provided on equalities and human rights issues: Eighty nine per cent of members, compared with 64 per cent of officers, say that the guidance is appropriate. But 31 per cent of officers don't know if it is appropriate. Although 93 per cent of officers compared with 65 per cent of members say that appropriate guidance is provided for officers, 32 per cent of members don't know.

47 Communication of ethical standards is considered to be good. But again members and officers do not have a full understanding about the information that each receives to promote high standards:

- 73 per cent of members and 86 per cent of officers say that the Council's approach to promoting high ethical standards is encouraging appropriate behaviour;

- 83 per cent of members and 62 per cent of officers say that the importance of high ethical standards is always or usually communicated to members; and

- 66 per cent of members and 90 per cent of officers say that it is communicated to officers, but 32 per cent of members don't know.

48 The Council's Chief Executive is considered to be a positive role model and proactive - by 88 per cent of members and 92 per cent of officers - in promoting the ethical agenda both inside and outside the Council. Eighty three per cent of members and 85 per cent of officers say that the Chief Executive always or usually promotes the importance of the ethical agenda. These figures are above average. He sets high personal standards, promotes appropriate behaviour and takes action where an issue could potentially undermine the reputation of the Council.

49 The Leader of the Council is also considered to be a positive role model. Sixty per cent of members and 81 per cent of officers replied 'always or usually' to this question. The Cheshire Lines Public Interest Report - published by the Audit Commission in 2005 - followed a request by the Leader for a review of the events surrounding the acquisition and subsequent development of this building and to make appropriate recommendations to improve the Council's procedures. Sixty one per cent of members and 71 per cent of officers say that the Leader always or usually promotes the importance of the ethical agenda. All these findings are above average

50 The Monitoring Officer gives proactive advice both to individual members and corporately. Both the Monitoring Officer and Deputy Monitoring Officer and other officers are available to advise them at all reasonable times. Seventy eight per cent of members and 66 per cent of officers say that the Monitoring Officer promotes the ethical agenda but a third of officers don't know. Providing guidance proactively helps to avoid potential infringements and resolve misunderstandings.

51 The Council could do more to promote confidence and trust in local government and local democracy beyond treating users of services fairly. A high percentage

of members (95 per cent) and officers (73 per cent) say that members always or usually treat users of Council services fairly. Eighty seven per cent of members and 94 per cent of officers say that officers treat users fairly. Our survey found:

- 46 per cent (average) of members and 66 per cent (above average) of officers say that the Council's approach to promoting high ethical standards is helping to build public confidence in the Council but 22 per cent of members don't know; and

- 68 per cent (above average) of members and 62 per cent (above average) of officers say that the importance of high ethical standards is communicated to local communities, but 20 per cent of members and 28 per cent of officers don't know.

52 Partners are not convinced that the importance of ethical standards is communicated to local partnerships. Three out of five partners who responded to the survey replied 'never' and one replied 'don't know'. In contrast 68 per cent (above average) of members and 66 per cent (average) of officers say that it is communicated to local partnerships although 22 per cent of members and 25 per cent of officers don't know. The partners were less complimentary about how the Council encourages good conduct.

Recommendation

R4 Ensure that information on the Council's ethical governance arrangements and its expectations about high ethical standards by all is widely disseminated, both internally and externally.

Transparency

53 The Council's Publication Policy and Access to Information Procedure Rules are included in the Constitution and are published on its website and Intranet. The website includes an introduction to the Freedom of Information Act, classes of information and individuals' rights. The wide availability though the website - with free access available at the borough's libraries - means that the public do not need to make a specific request under the Act.

54 The members' and officers' codes of conduct and Standards Committee papers can also be accessed via the website. Alternatively users can obtain information at the Council's one stop shops and information points across the borough:

- 82 per cent of members and officers say that the public can access the Members' Code of Conduct, but 18 per cent of members and 28 per cent of officers don't know; and

- 53 per cent of members and 70 per cent of officers say that the public can access the Officers' Code of Conduct, but 30 per cent of officers don't know;

55 Member protocols are generally clear. Members must, when using or authorising the use by others of the Council's resources (for example, ICT equipment), act in accordance with its reasonable requirements. They should do whatever they are able to do to ensure that the Council uses its resources prudently and lawfully:

- 92 per cent per cent of members compared with 72 per cent of officers say that council policies on the use of its resources by members are clear; and

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- 92 per cent of members compared with 65 per cent of officers say that the guidelines for members on their personal conduct are clear;

56 The use of council resources is not entirely clear. For example, the Members' Code of Conduct states that such resources should not be used improperly for party political purposes. Thirty five per cent of members and 20 per cent of officers say that members usually or sometimes use the Council's resources for party political purposes. Members would benefit from clear guidance on what constitutes improper use in such circumstances.

Recommendation

R5 Clarify the circumstances in which the use of council resources would constitute improper use for party political purposes within the Members' Code of Conduct.

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57 The register of member interests is kept up to date and complete. Members are aware of the need to make appropriate disclosures of gifts, hospitality and pecuniary interests. They make appropriate disclosures in the register which is regularly reviewed. An annual reminder - to be replaced by a quarterly reminder - is sent to members to complete the information. They are also required to make a declaration even if there is 'no change' to their circumstances. Progress is being made in implementing and making available an electronic version of the register that is directly accessible via the Council's website. It is important that such disclosures are registered to avoid any perception by members of the public that decision makers could be unduly influenced when making a decision concerning a particular organisation.

58 Members are proactive in declaring personal and prejudicial interests at meetings. The Members' Handbook contains an explanation that a dispensation can be sought, allowing them to take part in meetings where they have a prejudicial interest. The minutes of Council, Cabinet and committee meetings show that interests are regularly declared by members and the rules appear to be well understood. They are recorded in the minutes and a record of each member's declaration is accessible on the website. No allegations of impropriety have been made with regard to the declaration of interests.

59 Not all members and officers are confident about challenging inappropriate behaviour although most say that the process for reporting is clear:

- 72 per cent (average) of members say that they feel able to challenge other members' inappropriate behaviour, but 20 per cent say 'sometimes';

- 45 per cent of officers say that officers feel able to challenge members' inappropriate behaviour, but 37 per cent don't know;

- 76 per cent of members (above average) say that they feel able challenge officers' inappropriate behaviour; and

- 69 per cent (above average) of officers say that officers feel able to challenge other officers' inappropriate behaviour.

60 Most members and officers do not consider that inappropriate behaviour by members is addressed. Only 43 per cent (below average) of members and 28 per cent (average) of officers say that such behaviour is suitably dealt with. Officers are more confident (77 per cent) than members (47 per cent) that inappropriate

behaviour by officers is tackled. Members and officers have differing views on how bullying is tolerated in the Council:

- 60 per cent (below average) of members and 67 per cent (average) of officers say that bullying by members is not tolerated, but 29 per cent of members say 'sometimes'; and

- 71 per cent (above average) of members and 88 per cent (above average) of officers say bullying by officers is not tolerated;

61 The Council listens to and learns from constructive challenge, internally or externally, from the public or from official bodies. Ombudsman's reports and actions arising are reported to the Standards Committee. External and Internal Audit reports and actions arising are reported through the Corporate Governance Group and the Audit and Risk Management Committee as appropriate. However, one in five members and officers consider that members only sometimes respond to constructive, external criticism. Furthermore, less than half of members and officers say that the Council learns from other councils to ensure that its ethical arrangements are appropriate.

62 Communication between members is mostly open and constructive. Seventy six per cent of members say that communication between members is open and 63 per say that it is constructive, although a third say that it is only sometimes constructive. Over 82 per cent of officers say that communication between them is open and constructive. Members and officers agree that communication between each other is open but members (84 per cent) consider that it is more constructive than officers (70 per cent). About one in five say that communication is sometimes open and constructive.

63 Members are more confident than officers and partners about challenging member recommendations. Two thirds of members and officers say that there is a culture in the Council which allows members to challenge Council decisions without fear of reprisal. But only 55 per cent of officers say that the culture allows officers to challenge without fear of reprisal compared with 65 per cent of members. More than a fifth of officers and members replied 'don't know' to these questions and to how the culture allows the public and partners to challenge council decisions without fear of reprisals - only one out of five partners gave a positive response to this question.

Recommendation
R6 Consider the implications of the survey results relating to communication between officers and members, challenging member recommendations and council decisions and tackling inappropriate behaviour to create a culture of openness and transparency.

64 The Council's complaints system is accessible via the website and through One Stop Shops and Information Points. The website details the procedure for dealing with complaints about schools, social services, other council services and councillors. Users can download and complete a form to complain about an alleged breach of the Members' Code of Conduct. Members and officers both say that they treat complaints from the public seriously but their perceptions are different:

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- 97 per cent of members and 85 per cent of officers say that members take complaints from the public seriously; and

- 87 per cent of members and 99 per cent of officers say that officers take complaints from the public seriously.

65 The Council's Whistleblowing Policy is accessible to members and officers but it is not widely publicised to users. It cannot be easily accessed via the website - it is in fact included in a report to the Cabinet meeting of 3 April 2008. Following an internal governance review and subsequent comments by the Audit Commission a revised policy was introduced in 2008. The policy gives employees clear guidance on how to proceed if they have a concern and provides for more named officers within the Council that they will be able to approach in order to discuss their concerns.

66 During the last year the Audit Commission received details of an individual's concerns about contracts and charging in adult social services. Our review under the Public Interest Disclosure Act found the individual's concerns to be largely justified and we highlighted the failure of the Council's own systems for dealing with complaints and such concerns, including the whistleblowing procedure. A culture where employees can disclose allegations of malpractice internally is more likely to uphold the reputation of the Council, maintain public confidence and result in better outcomes for local people, than either such malpractice being disclosed to the public or it otherwise continuing to fester and harm the organisation.

67 But our survey did highlight some concerns about confidence in the whistleblowing arrangements. A third of members and officers don't know if the policy is being used appropriately or without fear of reprisal. This is a major gap in knowledge and weakens the ethical framework and the Council's approach to ensuring high standards of ethical governance.

Recommendation
R7 Increase awareness of the Whistleblowing Policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.

Appendix 1 – Standards Committee - terms of reference

The terms of reference of the Standards Committee are:

- promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;

- assisting the Councillors and co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;

- advising the Council on the adoption or revision of the Members' Code of Conduct;

- monitoring the operation of the Members' Code of Conduct;

- advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;

- granting dispensations to Councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

- dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer; and

- monitoring and reviewing as necessary the operation of whistleblowing procedures.

- considering reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its members;

- to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Authority;

- approve the payment of compensation involving sums in excess of £5,000 (or less, if considered appropriate) to settle complaints of maladministration; and

- establishing such sub-committees as are required or allowed by the Standards Committee (England) Regulations 2008 to deal with the initial assessment, review and hearing of complaints made alleging that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members.

Appendix 2 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
9	R1 Emphasise to members and officers that they can: • make allegations of misconduct by a member or an officer without fear of reprisal; and • be confident in the actions they should take as individuals if they become aware of such misconduct.	3				
11	R2 Raise the profile of the Standards Committee by: • developing a work programme and action plan; • undertaking an annual assessment of standards of conduct of members and officers and taking action as appropriate; • learning from and using the findings of the allegations it receives, reviews, determinations and reports from the Local Government Ombudsman, internal and external audit, complaints and whistleblowing to plan and evaluate its work; and • communicating its work to a wider public.	2				
12	R3 Review the level of training for members	3				

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	and officers on the ethical agenda and: • use information obtained through feedback and monitoring processes of individuals/groups/panels/committees and from other sources to plan training, development and support for individual members, groups of members and members of the Standards Committee and for officers; and • introduce for independent members an induction programme that includes training on the members' and officers' codes of conduct and the function of the Standards Committee and attendance at meetings of, for example, Cabinet, overview and scrutiny, planning and licensing committees and the full Council.					
14	R4 Ensure that information on the Council's ethical governance arrangements and its expectations about high ethical standards by all is widely disseminated, both internally and externally.	2				
15	R5 Clarify the circumstances in which the use of council resources would constitute improper use for party political purposes within the Members' Code of Conduct.	2				
16	R6 Consider the implications of the survey results relating to communication between officers and members, challenging member recommendations and council	2				

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	decisions and tackling inappropriate behaviour to create a culture of openness and transparency.					
17	R7 Increase awareness of the Whistleblowing Policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.	3				