

REPORT FOR RESOLUTION

COMMITTEE: Standards Committee
DATE: 17 November 2008
SUBJECT: Ethical Governance Update
REPORT OF: The City Solicitor

PURPOSE OF REPORT:

To update the Committee on developments in ethical governance matters.

RECOMMENDATIONS:

For the Committee to note the report.

FINANCIAL CONSEQUENCES FOR REVENUE BUDGET:

None.

FINANCIAL CONSEQUENCES FOR CAPITAL BUDGET:

None.

WARDS AFFECTED:

All.

IMPLICATIONS FOR:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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BACKGROUND DOCUMENTS:

Report to the Standards Committee on 5 March 2007

Background

1. There have been a number of recent developments in relation to ethical governance matters. This report provides a brief summary of them.

Launch of Handbook for Leaders

2. A 'Handbook for Leaders', aimed at both elected members and officers, has been produced. It is intended as a guide to the governance arrangements that the Council has in place including a guide to the code of conduct for members.
3. Paper copies of the handbook have been sent to members and to senior officers. An electronic version is available through the intranet.

Cascade Article

4. Cascade is a Council newsletter issued every three months to employees containing information on issues relating to the Council. The winter edition of Cascade reports on the introduction of the local filter. It advises that responsibility for considering allegations of a breach of the code of conduct for members has passed from the Standards Board to local authority Standards Committees, and notes that that more information about this can be found on the Council's intranet in the Handbook for Leaders.

Members' Update

5. The autumn/winter edition of the Members' Update on Ethical Governance which was approved by the Committee on 8 September 2008, was circulated to all members in September. The next edition of the Members' Update will be available next spring/summer.

Local Assessment – Guidance on Other Action and Adjournment

6. The Standards Board's bulletin number 40 contains an article on the decision by a standards assessment sub-committee to refer a complaint to the monitoring officer for other action (for example mediation or training).
7. The Standards Board considers that difficulties may arise in relation to directions that other action be taken. This is because once the standards assessment sub-committee has made the decision to refer a complaint to the monitoring officer for other action, the matter is closed. If a member refuses to co-operate with the other action, the standards assessment sub-committee cannot reconsider the matter, unless a new complaint is brought alleging that the member's failure to co-operate has brought their office into disrepute.
8. It is suggested that one way of dealing with this difficulty would be for standards assessment sub-committees to adopt the practice of adjourning consideration of a case that they consider suitable for other action. The monitoring officer could

then be asked to ascertain whether the member concerned would be willing to cooperate with the other action and report back to the standards assessment sub-committee, who would then make its decision.

9. The advantages of such an approach, the Standards Board suggest, would be:

- Members of the standards assessment sub-committee will know what the member's attitude is regarding the action proposed;
- The standards assessment sub-committee retains the option to send a case for investigation where it appears that the alternative action might be ineffective; and
- The case may be settled and the standards assessment sub-committee can reconvene and decide to take no action.

10. The concerns, as identified by the Standards Board, about this approach are:

- The target of dealing with complaints within 20 working days is difficult to achieve;
- The role of the standards assessment sub-committee in determining what other action is taken could be undermined, with the monitoring officer or the member being investigated becoming involved in the decision making;
- The monitoring officer may end up initiating an investigation before being instructed to do so;
- The more information the monitoring officer collects during the adjournment the more difficult it becomes for members to sit as part of the hearing panel later. The member may find it easier to argue that any member of the standards committee is biased by having received more information than was necessary to carry out their functions under s.57A of the Act; and
- The Standards Board considers that the monitoring officer is permitted to clarify the complaint or clarify basic facts. However the question arises as to whether asking the member how they would react to a direction for other action and feeding this back into the decision-making process might amount to an irrelevant consideration and be unlawful.

11. The Standards Board has not finalised its position in relation to adjournment when considering other action. The City Solicitor will keep the Committee informed of any further developments in this area.

Briefing for Members on Ethical Governance Issues

12. At the meeting of the Standards Committee on 8 September 2008, it was agreed that a briefing for members on issues of ethical governance should be arranged to coincide with dates in the Committee cycle which are already in elected member's diaries. A briefing for members on the above is planned to take place as follows:

- 22 January 2009 (morning);
- 26 February 2009 (afternoon); and
- 19 March 2009 (morning).