



STANDARDS COMMITTEE

4th August 2004

**AGENDA
ITEM:**

ETHICAL GOVERNANCE AUDIT REPORT

Summary of Report:

In 2002 the Council received a Corporate Governance Inspection (CGI) conducted by the Audit Commission. That report highlighted many areas for improvement. Members will be well versed with the recommendations flowing from that report and the difficult decisions that had to be taken.

As part of the recovery process an independent audit was commissioned by the then Interim Director for Legal Services. The audit undertaken by the Chartered Institute of Public Finance and Accountancy (CIPFA) was commissioned to examine the Council's ethical governance arrangements and to make recommendations.

A comprehensive report was received running into 96 pages. The report has been shared with senior officers and members. Some recommendations arising out of the report have already been actioned, whilst others remain under consideration. This report sets out the proposed way forward.

Background Papers:

All published

Recommendations

That the committee note the

1. findings of the ethical governance audit report
2. Monitoring Officers intention to review the constitution
3. Monitoring Officer's intention to take reports recommending changes to the constitution to Council over the municipal year arising from the recommendations contained within the report of the audit of ethical governance arrangements and a review of the constitution.

Signed:

**Assistant Director for Legal Services
and Monitoring Officer**

Date: 14th July 2004

Financial Implications

There are no financial implications arising from this report.

Equality Opportunity Implications

There are no Equal Opportunity implications arising from this report.

Environment Impact

None.

Legal Implications

Legal implications arising from this report are set out in the body of the report.

Other Policy Implications

The Local Government Act 2000 introduced the requirement on local authorities to have a committee that was responsible for maintaining high standards in public life and ensuring that appropriate training was given to elected members and officers within that organisation.

The Act also introduced the model code of conduct for elected members and a code for officers is expected shortly. The maintenance of public confidence in local government and all aspects of public life are vital to success of the democratic process and thus the importance placed upon the framework that the Council adopts and follows.

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1. Ethical Governance Report

- 1.1 An audit of the ethical governance arrangements at Walsall was undertaken towards the end of 2003. The inspection was carried by CIPFA following a methodology devised by CIPFA Better Governance Forum, the Society of Local Authority Chief Executives, guidance issued by the IDeA, the Office of the Deputy Prime Minister, the Audit Commission and reports of the Committee on Standards in Public Life.
- 1.2 The audit was conducted by examining documentary evidence to ensure that the Council had in place the necessary systems, procedures and protocols for internal regulation. Further, that the aforesaid are monitored and changed in light of experience
- 1.3 Additionally, a reality check was undertaken to ensure that the paper systems actually worked on the ground. This was undertaken by means of a questionnaire sent to all members and senior officers
- 1.4 The report is some 96 pages long and is arranged into following chapters:
 1. Introduction & Summary
 2. Consideration of the Constitution
 3. The Role of the Monitoring Officer
 4. Analysis of response to the Questionnaire
 5. The Role of the Standards Committee

Chapters 1 & 5 are appended to this report

2. Consideration of the Findings

2.1 The Summary

The report starts off by defining good ethical governance arrangements by means of 9 tests that an organisation should pass. Those tests are as follows:

- 1) Has developed an ethical framework designed to promote high standards of conduct and to reduce/eliminate misconduct;
- 2) Seeks to build a bond of trust between the Council and the community;
- 3) Is open and has good access to information;
- 4) Encourages, develops and maintains high standards of conduct by communication, training, development and support to staff and members;
- 5) Integrates the ethical framework into the design of its procedures and processes and into all the Council's operations;
- 6) Has clear lines of accountability and responsibility;

- 7) Is not complacent, is committed to improving ethical practice and standards and monitors progress;
- 8) Considers ethical conduct and high standards as an important component of the Council's vision for the future and in its achieving its aims and objectives;
- 9) Can demonstrate positive outcomes in its implementation and applications of the ethical framework.

- 2.2 The report considers that the Council demonstrated that it had met the first 7 of these tests. With regard to the latter 2, it considered that this was still work in progress and that the Council were in the state of collating evidence to prove that it could meet those tasks. Since the date of the report, the Monitoring Officer is confident that should a fresh ethical governance audit be carried out that the Council would be able to provide sufficient evidence in relation to these last 2 tasks. Since the current Monitoring Officer has been in post, there have been a number of occasions when officers and members of their own volition have sought guidance or referred matters for his attention. As a result of the early involvement of the Monitoring Officer, those matters have all resulted in compliance with the Council's own governance arrangements and as a result has demonstrated positive outcomes of the application of the ethical framework.
- 2.3 The conclusion that the CIPFA auditor drew following the audit was that many of the components of an effective and ethical authority had been satisfactorily met by Walsall MBC. There were some very good examples of corporate governance and that the Council has in place the essential provisions to ensure that it operates to high standards of ethical conduct and appears to do so. Notwithstanding the above, the audit has made a number of recommendations where existing processes, procedures or systems could be reviewed and further improved.

3. **The Constitution**

- 3.1 Chapter 2 of the report considers the Council's constitution in detail and makes recommendations on improvement or refining the constitution so that there is better consistency, easier access to information, greater transparency, accountability and that it encompasses modern working methods.
- 3.2 The chapter considers each constituent part of the constitution in depth and makes a number of recommendations. A review of the constitution is a formidable task and one which has many stakeholders. The Monitoring Officer has agreed to undertake a review of the Council's constitution during the course of this municipal year. The review will be broadly split into 3 categories;

Category A – the Scheme of Delegations

Category B – the Rules regulating the Conducting of Business

Category C – the Contract and Financial Procedure Rules

- 3.3 The Monitoring Officer has sought and received volunteers from officers representing different services across the authority who will all contribute to the review of the constitution.

- 3.4 Work has already begun on the review. Reports will be presented to Council periodically and it is anticipated that most recommendations for changes to the constitution will have been presented to the Council by the beginning of the new calendar year with implementation of the new constitution from the start of the new municipal year. It is proposed that during that interim period, between January 2005 and May 2005, that a series of training courses will be run for officers and members.
- 3.5 Prior to consideration of the changes by Council it is hoped that the recommendations for changes to the constitution will be taken to the appropriate scrutiny committees for detailed consideration by elected members.

4. The role of the Monitoring Officer

- 4.1 Chapter 3 of the report considers the role of the Monitoring Officer. The Monitoring Officer is a role defined in statute and is one of the 3 statutory officers a local authority must have. The Council's constitution sets out the role of the Monitoring Officer. However, on further consideration, it is considered that that role could be better defined, made clearer and as a result the recommendations made within the ethical governance report will be implemented. Additionally, it is considered that the roles of the other 2 statutory officers, the Head of Paid Service and the Chief Finance Officer will also be further defined and clarity brought into the definitions so that their duties and their profile can be raised and shared with officers, members and stakeholders. It is proposed that a report will be taken to Council in September with the redefined roles.

5.0 The Standards Committee

- 5.1 Chapter 5 of the report, which is appended, considered the role of the Standards Committee. In addition to its statutory role, the report considers and suggests examples of other roles for the committee. The report cites 17 examples of possible development.

Set out below is a table containing each of those recommendations and the current situation.

No	Recommendation	Current Status
1	Information and advice disseminated by committee to members and officers and encouragement of dialogue on current issues.	Information and advice is disseminated by the Standards Committee to members on developments of the code of conduct.
2	Changes to practices and procedures prompted by the committee.	Ethical governance audit commissioned. Recommendations to be considered and implemented as appropriate.

3	Meetings between the 3 principal statutory officers to discuss ethics matters.	The Head of Paid Service and the Chief Finance Officer are members of the Executive Management Team which meets every Thursday. The Monitoring Officer attends the Executive Management Team meetings and frequently meets with the other statutory officers to discuss issues of concern.
4	Formation of a network of officers and departments responsible for assisting the Monitoring Officer role.	The Monitoring Officer is assisted by 2 Principal lawyers, who in his absence act as Deputy Monitoring Officers.
5	Formation of a network of nearby Monitoring Officers and Standards Committee Chairs to promote good practice and influence national developments.	<p>The Monitoring Officer regularly attends meetings of the West Midlands Chief Legal Officers Group which regularly discusses issues of a Monitoring Officer nature.</p> <p>Two independent members of this Standards Committee are scheduled to attend the annual Assembly of Standards Committees to be held in Birmingham in September. If the committee considers that the formation of such a network would be advantageous to its work, this could be explored at that Annual Assembly with other delegates.</p>
6	Creation of new code of ethics for both members and officers.	The code of conduct of elected members is a statutory code which must be adopted as a bare minimum. Whilst there is scope for development of the code to address local needs, it is still early days for such consideration. The Office of the Deputy Prime Minister has indicated that a national code of conduct for officers would be issued this year but we are still waiting, notwithstanding the aforesaid, this authority has adopted its own code of conduct for officers in 2002.

7	Monitoring of matters related to ethics and whistleblowing.	Reports are presented to the committee providing details of incidents which alleged breaches of the code that have been reported to the Standards Board for England.
8	Use as an ad hoc reference point by Council and the Executive.	-
9	Training sessions organised and feedback reviewed.	The Committee through the Monitoring Officer has organised training sessions for elected members on the code of conduct. The Monitoring Officer and Deputies attended the Member Induction Programme in June 2004. Further sessions have already been planned for August 2004 and in the New Year.
10	Monitoring declarations of interests	The Monitoring Officer receives all forms submitted by members declaring their interests. Those forms are reviewed and if necessary clarification is sought from individual members.
11	Monitoring practices relating to background papers and exclusion of the public and deletion of out-moded practices.	The Monitoring Officer receives all agendas and considers those agendas with the assistance of his team members and makes recommendations for improvement
12	Review of recent difficult ethical situations and evidence of a change to reflect experience gained.	A number of issues arose during the last municipal year in relation to planning matters. As a result those circumstances were incorporated into a training programme delivered for those members who sit on the Development Control Committee.
13	Review of practices regarding dispensations and confidentiality.	A report on the process could be brought to a future meeting of this committee.

14	Review of practices and initiatives introduced by each chief officer to improve ethical standards.	Practices and initiatives introduced by Chief Officers are normally discussed at Executive Management Team, where all 3 statutory officers are present.
15	Efforts made to demonstrate the authority's priority attached to high standards.	<p>A number of training courses were run during the year to inform and advise elected members on the code of conduct, further training has also already been scheduled into the member development programme.</p> <p>Places for Independent members of the Standards Committee and senior members of each political group at the Council have been reserved at the Annual Assembly of Standards Committees. The Monitoring Officer has discussed the application of the code of conduct with several elected members to advise and inform them so that they may be better positioned to avoid non-compliance with the code.</p>
16	Evidence that officers have a reasonable knowledge of what the Monitoring Officer and the Standards Committee do, how they can seek advice and what to do if they are aware of unethical conduct.	Council is currently reviewing its corporate induction programme. The Monitoring Officer is actively involved in that review and is actively seeking to highlight the role of the 3 statutory officers, the codes of conduct relating to officers and members and the work of the Standards Committee in addition to the whistleblowing procedure.
17	Promotion of the positive aspects of the committee's work.	The committee regularly circulates updates on developments of the code of conduct and organises training and development for members through the Monitoring Officer and thereby promotes a positive role.

CHAPTER 1

INTRODUCTION AND OVERALL SUMMARY

1. Introduction

- 1.1** The Chartered Institute of Public Finance and Accountancy has been commissioned to undertake an ethical governance audit of Walsall Metropolitan Borough Council. In doing so, we have (a) used our experience of carrying out similar audits for all types of local authorities (b) used the methodology developed by CIPFA's Better Governance Forum in conjunction with the Society of Local Authority Chief Executives and (c) drawn significantly on the indicators and contra-indicators devised by the IDeA's working party on ethical governance audits as well as a variety of academic and other publications including most recently the ODPM paper on strengthening the constitution and the Audit Commission paper on improvement and trust in local public services.
- 1.2** The audit has also been guided by the Local Authorities General Principles Order and the reports of the Committee on Standards in Public Life which dealt with local government. The Committee highlighted the low level of trust which its research showed to be felt by the public in local authority councillors generally. It based many of its recommendations on a desire to use a new ethical framework to boost that low level of trust and respect for democracy and standards in public life. Some of our comments have been based on that approach as well as a keenness to point out positive ways of improving the governance of, and ethical standards within, the Authority.

- 1.3 For many years local authorities have properly focussed on service delivery, performance targets, strategic planning and partnerships as their overriding priorities with little attention paid to the need to promote the value of the whole principle of local democracy in the face of increasing centralisation. Building local trust in the Authority and a culture of high ethical standards is a prime way for local government to be able to demonstrate its importance to the community as a concept worthy of maintaining and developing. A lack of trust in democratic institutions is unhealthy and dangerous and it is much to Walsall Metropolitan Borough Council's credit that it has volunteered to join a growing number of democratically elected local institutions willing to be thoroughly overhauled from an ethical viewpoint by an external source.
- 1.4 The style of audit is based on seeking actual evidence that the Council has in place the necessary systems, procedures, protocols and internal regulations, and actively uses, monitors and changes them in the light of experience and changing circumstances. Much of the approach is therefore based on examining documentary evidence to ensure that the foundations are in place on which to build the resulting practices that will deliver the high standards intended. This "reality check" is supplemented by a questionnaire to all members and senior officers, the responses to which are analysed to gauge the general approach to the ethical standards framework operated by the Authority. In particular, we are aware that the Council has received reports from other bodies and our approach has been designed to avoid duplicating their efforts so that we can endeavour to provide a useful report which concentrates in depth on the written materials initially supplied to, or requested by us. We have deliberately not sought to garner any detail of the

past history involved so that this report can be prepared in the same way as we would approach similar commissions from other authorities.

- 1.5 An important feature is to determine whether the detailed elements of high ethical standards are embedded throughout the Authority or are seen as somewhat superfluous extras imposed by statute and not really the province of anyone other than the Standards Committee and the Monitoring Officer. The style of the audit has deliberately sought to avoid what might be criticised as reliance on anecdotal evidence and to concentrate instead on hard evidence and good practice.

2. DEFINING A FULLY EFFECTIVE ETHICAL AUTHORITY

2.1 The following tests can be applied at regular intervals to measure progress both corporately and on an individual topic basis:

1. Has developed an ethical framework designed to promote high standards of conduct and to reduce/eliminate misconduct.
2. Seeks to build a bond of trust between the Council and the community
3. Is open and has good access to information
4. Encourages, develops and maintains high standards of conduct by communication, training, development and support to staff and members
5. Integrates the ethical framework into the design of its procedures and processes and into all the council's operations
6. Has clear lines of accountability and responsibility
7. Is not complacent, is committed to improving ethical practice, and standards, and monitors progress
8. Considers ethical conduct and high standards as an important component of the Council's vision for the future and in achieving its aims and objectives
9. Can demonstrate positive outcomes in its implementation and applications of the ethical framework.

2.2 On the first seven of these tests, Walsall Metropolitan Borough Council has demonstrated it has met the demands of the audit quite well. There is also evidence that it is working towards the remaining two and with the proactive assistance of the standards committee it should increasingly be able to demonstrate positive results and a higher profile in relation to ethical matters

in the council; this in turn will assist in building a greater trust and confidence in the council as a corporate democratic body committed to high standards of conduct.

2.3 In carrying out the ethical audit, three core competencies have been applied:

1. Integrity comprising ethical vision, communication and commitment and leadership
2. Accountability comprising organisational management, systems and process operation, and objectivity and scrutiny
3. Standards management comprising standards integration, people and practice management, training and development, and planning and review processes.

2.4 The detailed analysis which follows in chapter 2 illustrates how the audit has looked for positive indicators and any contra-indicators based in these core elements

2.5 So, for example, in examining integrity, evidence has been sought that

- Members and officers recognise the importance of ethical standards in local governance and that the authority has been able to develop an ethical culture and values
- Information, policies, procedures and guidance on ethical standards have been disseminated to Members, officers, the public and other individuals and organisations with which the council is involved, and that listening, dialogue and feedback is actively encouraged.

2.6 In the case of organisational management, evidence has been sought of:

- Clearly defined, well understood roles and responsibilities for Members and officers and transparent management processes for policy development, implementation and review, and for decision making, monitoring and reporting.
- Operating to defined roles, responsibilities, policies, procedures protocols and codes, and monitoring, reviewing and amending them if appropriate
- Clear arrangements for dealing with general or difficult specific ethical situations and a willingness to use them

2.7 Evidence that the promotion, maintenance and development of high standards of conduct is integral to the authority's operations is seen in

- A confidential reporting mechanism which is widely known and understood and which has the confidence of Members and officers
- Training and development in ethical standards
- Ethical standards being "designed in" to the authority's relationships with outside bodies
- Regular review of the operation of the ethical framework and evidence of plans for further improvement in key aspects

3. CONCLUSION

- 3.1 The Chartered Institute of Public Finance and Accountancy has concluded that many of the above components of an effective and ethical authority have been met satisfactorily. There are some examples of very good standards of corporate governance and the council has in place the essential provisions to ensure it operates to high standards of ethical conduct and indeed appears to do so. The Chief Executive has required that each Member receives advice on an individual basis on the code and other aspects of the ethical framework; there is evidence as a result that many aspects of Member conduct meet the criteria described above.
- 3.2 We have examined many of the Council's documents relevant to corporate and ethical performance. Particularly impressive were the provisions relating to the declaration of interests by officers, the Member job descriptions, the guidance for effective consultation and the papers relating to Member development and personal development. Through these, and others, the council displayed a willingness to meet many of the criteria referred to above.
- 3.3 We have drawn attention to well over a hundred points which the Council, perhaps initially through an officer group dealing with issues related to

political management structures, and/or the standards committee, might like to consider as suggestions for possible improvement.

- 3.4 These suggestions refer to several pages and deficiencies compared to documents examined in audits performed for other authorities and point out the need for further improvement or wholesale review. For example, the Council's development control procedures and system of district committees is in need of immediate change and would benefit from an entirely fresh start. Whilst the original aims behind the present documentation on these topics may well have been laudable, they are not working in practice. At least as an interim measure, a single, member only development control committee, fully trained, would be an experienced base from which to contemplate any possible change in the longer term and a complete revamp of the "locality" arrangements, introducing ideas with proven success from elsewhere, would be a positive and much needed contribution to improved community engagement.

- 3.5 As mentioned in 1.4, this audit for the council is based, intentionally, very much on analysis of written material but this has been supplemented by observation of a small number of member meetings and a member officer questionnaire. In Chapter 2, there are many detailed suggestions for

improvement in the Council's constitution and related paperwork and practices. Some parts of the existing paperwork are in need of a radical overhaul; they appear too detailed and repetitive, are not in keeping with modernised ways of working or user friendly and appear to relate to an era of lack of trust which is now hopefully disappearing. Arising from analysing the questionnaire responses and observation at some meetings, it was clear that the council was gaining confidence in itself, operating on a basis of mutual respect and trust between officers and members, and putting the interests of the public before any party political differences there may have been. If this was supposed to be one of the worst councils in England not so long ago, there was little to justify that description now, notwithstanding that in some matters there is still a long way to go as indicated in various parts of this report. Some questionnaire responses did however indicate that not all members were fully on board with what was trying to be achieved and this needs to be monitored and addressed.

- 3.6 At this early stage in the report, it may be useful to refer to a need to consider a programme of democratic renewal; there appeared to be insufficient use made of members' time at meetings observed or analysed and a lack of transparent rational debate, although the worst extremes of some other

council's meetings were refreshingly absent. In particular, there may be a need to

- (a) discuss at a senior level the ways in which members can ensure appropriate debate of key issues, especially at council meetings, and
- (b) examine ways in which all members can be made to feel they have a worthwhile role to play even if they are not on the executive or some form of office holder. Such matters are also connected to what is understood to be a low level trust and of interest by the local population in the Council's business.

3.7 The Standards Committee in its work with the monitoring officer has covered the basic essentials with which it needs to be involved. They have an interesting potential, because of their inbuilt majority of non-borough councillors, to be used primarily as an important sounding board on matters relevant to good conduct where a largely independent, objective and external viewpoint would add a valuable dimension and contribute to fulfilling the objects of the Committee on Standards of Conduct in Public Life. Additional powers delegated under section 54(3) of the Local Government Act 2000 could gradually increase the role of the committee in promoting good standards, dealing with other appropriate one-off

issues referred to it, and utilising the skills and interests of the members which might be revealed by each member completing a skills audit.

3.8 The committee needs to be able to demonstrate some successes arising from a monitoring role over standards of conduct e.g. in improvements that might be made on procedures, or guidance relating to registers of interests completed by members and officers. A rigorous but fair approach will serve to promote the committee's profile. In this regard, we have suggested an examination of the monitoring officer's role in chapter 3 and the development of some benchmarks for the committee in chapter 5.

3.9 The remaining chapters in this report cover the following:

Chapter 2	The Constitution and other documents examined
Chapter 3	The Role of the Monitoring Officer
Chapter 4	Analysis of responses to questionnaire
Chapter 5	The Role of the Standards Committee

community with the object of increasing trust in the Council and its elected representatives.

Not all of the above will necessarily fit with the Committee's own objectives and the Authority's priorities and culture but most should be capable of adaptation to suitable benchmarks for developing the role of ethical standards in the Authority's operations and systems.

Monitoring Officers generally will also need to facilitate the Committee's role in promoting and maintaining high standards of member conduct by reporting regularly on important Adjudication Panel cases and relevant decisions by other Standards Committees from the respective websites. A higher profile and a proactive role of delivering results will enable the committee to participate in the improving situation of the Council by developing some of the suggestions above.