

Executive Summary and Recommendations

Date: Monday 2 March 2009

Subject: Overview of Ethical Standards and Related Matters

Summary of this Report

- 1.1 This is the third annual report to the Standards Committee submitted in accordance with the Committees' following term of reference:
- "To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority (ie not just in relation to Member conduct) and in this context to receive a report annually from the Head of Legal Services, the Director of Finance and the Strategic Director Resources".
- 1.2 It sets out how the City Council goes about maintaining High Ethical Standards and covers issues from relevant audit reports, staffing information and referrals relating to Member Conduct to the Standards Board for England.

Recommendations

- 2.1 That the annual report be noted and the actions taken and proposed be endorsed.
- 2.2 That the Committee endorse the conclusions set out in paragraph 7 of the report.
- 2.3 That the report be circulated to all Members of the Council with a covering letter from the Chairman of the Committee.
- 2.4 That for the reasons set out in paragraph 3.6 of the report the next full annual report be submitted in the Committee in July 2010 with key issues being submitted as necessary in the meantime and the Annual Governance Statement being reported to the Standards Committee on 14 July 2009.



City of Westminster

Standards Committee Report

Item No:	
Date:	2 March 2009
Classification:	For General Release
Title of Report:	Overview of Ethical Standards and Related Matters
Report of:	Head of Legal Services Strategic Director of Resources Director of Finance
Wards involved:	Not applicable
Policy context:	High Ethical Standards
Financial summary:	There are no financial implications arising from this report
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3. BACKGROUND

- 3.1 The issues covered by this report are those which the Standards Committee have previously endorsed as those which should be included.

When considering its first annual report the Committee agreed the following definition of a complaint relating to ethical governance.

“An alleged breach of the high standards of ethical conduct set out in the Codes of Conduct for Officers and Members.”

Since agreeing this definition, the Audit Commission have circulated their own definition of governance, as follows:

“Good governance is about ensuring the organisation is doing the right things, in the right way”.

- 3.2 As was the case with last year’s report a summary of key activity/events in the following areas have been included: these being the areas previously endorsed by the Standards Committee as those which they would like to be addressed.

- (a) Summary of Internal Audit activity.
- (b) Summary of External Audit activity.
- (c) Corporate Complaints.
- (d) Procurement.
- (e) Human Resources; including details of Staff Disciplinary Cases, Whistleblowing issues and Ethical Governance training.
- (f) Member Conduct and Related Issues.
- (g) A summary of the work of the Audit and Performance Committee.

- 3.3 As part of the re-organisation of the Council, which is currently being implemented, the Chief Executive will convene meetings of a Statutory and Corporate Governance Group on a regular basis. This Group comprises the Chief Executive, the Director of Finance and the Monitoring Officer (the Head of Legal Services) and other officers will attend as necessary. Its terms of reference are:

“To keep under review the Governance arrangements and related procedures of the City Council, to ensure best practice so that the highest standards are maintained”.

A Corporate Governance Group currently exists. This Group was originally established to conduct a review of the Council's arrangements against the CIPFA/SOLACE Good Governance Framework published in 2007 and to co-ordinate the preparation of the Council's Annual Governance Statement. It has overseen a programme of improvement activities arising from this work and is continuing to monitor progress. It has also reviewed the updated Code of Governance, overseen the publication of the Employee Code and is close to completing work on a Partnership Manual, which sets out best practice in the area of partnership working.

3.4 The Statutory and Corporate Governance Group will consider the future role of the Corporate Governance Group and may refer matters to it. A review of the work of these Groups will be included in this annual report in future.

Governance Website

The Council's documents which relate to Governance have now been located in a single location on the City Council's website. Currently, the website contains the following documents:

- Annual Governance Statement 2007-08
- Anti-Fraud and Corruption Policy
- Code of Governance
- Complaint about Councillor Conduct
- The Council's Constitution
- Data Protection Advice for Members
- Employee Handbook
- Advice on Member Conflicts of Interest
- Member Induction Handbook
- Members' Code of Conduct
- Register of Members' Interests
- Standards Committee meeting dates, reports, minutes and terms of reference)
- Whistleblowing at Work Policy

Governance Repository

Software has been purchased for Council-wide communication to promote awareness, understanding and compliance with key policies and regulations. This will be piloted within the Finance department prior to a wider roll-out.

3.5 **Review of Investments Strategy**

In October 2008 three Icelandic banks went into administration. At the time the Council had £16m in cash deposits invested with two of the banks. In response the Director of Finance commissioned, from KPMG, an urgent independent external review of the Council's treasury management strategy and supporting systems of internal control. The review was completed in December 2008 and the results were considered and endorsed by the Audit

and Performance Committee. In summary, the review concluded that the Council had complied with its treasury management strategy and that no instances were identified where controls were materially ineffective. A number of areas for improvement were identified including clarifying aspects of the treasury management strategy, documenting the respective roles and responsibilities of parties involved in treasury activities, and strengthening authorisation controls and separation of duties. Action is being taken to implement the recommendations made and an interim Treasury Manager has been appointed to progress this. A progress report was presented to the Audit and Performance Committee on 18 February 2009.

- 3.6 It is suggested that it would be helpful to dovetail future reports to the Standards Committee with the preparation of the Council's Annual Governance Statement (AGS). This AGS is a statutory document which describes the arrangements the Council has in place to ensure good governance, the effectiveness of these arrangements, and any improvement activities undertaken and planned. It also incorporates the findings of internal and external audits and inspections conducted. It is prepared following the end of each financial year and presented to the Audit and Performance Committee for endorsement at its June meeting. The AGS would provide the Standards Committee with a high level overview of the Council's governance arrangements and could be supplemented with more detailed information, as required, on issues specifically related to the promotion of high ethical standards.

4. LEGAL IMPLICATIONS

- 4.1 There are no new legal implications arising from this report.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising from this report.

6. OTHER IMPLICATIONS

- 6.1 There are no other implications arising from this report.

7. CONCLUSIONS

This report highlights the continuing work being undertaken throughout the City Council in taking ethical governance issues forward. It outlined the progress made on the matters set out for further action in last year's report, particularly in the areas of staff awareness as evidenced by the publication of the Staff Handbook and the How the Council Works and Governance training course.

The evidence set out in both external and internal audit reports confirms that high standards continue to be achieved. The work of the new Statutory and Corporate Governance Group will be to ensure the existing high standards are maintained and enhanced.

If you wish to inspect one of the background papers please contact
Mick Steward: 020 7641 3134; email: msteward@westminster.gov.uk

Background Documents

- Report to the Standards Committee – 29 April 2008
- Minutes of the Standards Committee – 29 April 2008

Internal Audit and Counter-Fraud Activity

- 1 The Council maintains an outsourced internal audit service which operates to the standards set out in the CIPFA Code of Practice for Internal Audit in Local Government in the UK. The service is subject to regular inspection by the Audit Commission and the performance of the contractor is closely monitored by Council staff.
- 2 The role of internal audit includes evaluating the effectiveness of control systems in minimising risk, supporting the achievement of objectives and promoting compliance with policies, procedures, laws and regulations. Aspects of this work are relevant to the Council's arrangements for maintaining high ethical standards.
- 3 The internal audit team carries out a risk-based annual programme of audits to provide the Council with assurance on the adequacy of its control systems. There is also a counter-fraud team which conducts investigations into suspected fraud and undertakes an annual programme of pro-active counter-fraud work.
- 4 Coverage is planned in consultation with departmental management teams and the annual programme is approved by the Corporate Management Board and the Audit & Performance Committee. There is flexibility within the annual programme to respond to the Council's changing needs and to urgent requests for advice and assistance on internal control and fraud related matters.
- 5 Each audit results in the production of a written report to management highlighting key risks and including actions agreed for addressing control weaknesses. All recommendations are prioritised and all audits are followed up to confirm that recommendations have been implemented. The Council's performance in this area is good, with 100% of priority one recommendations confirmed as implemented for the year to date.
- 6 The findings of all audits, and the results of follow-ups, are reported monthly to the Head of Risk and Audit and a summary report is presented quarterly to the Audit & Performance Committee. An annual report is also produced summarising the contractor's performance and the results of work undertaken. Any significant weaknesses in control systems are also included in the Council's Annual Governance Statement along with an action plan setting out how these will be remedied.
- 7 Internal audit coverage is wide ranging and spans all departments of the Council. Audits are included in the annual programme based on a risk assessment carried out in conjunction with departmental management teams. At the planning stage for each audit consideration is given to auditing the following areas which have particular relevance to governance issues:

- Compliance with Financial Regulations
- Compliance with the Corporate Procurement Code
- Compliance with the Council's Constitution
- Adherence to the Council's policies, procedures and objectives
- Mitigation of risks to the Council's reputation
- Compliance with the Council's statutory obligations
- Compliance with codes of practice issued by regulatory bodies eg the DCFS Financial Management Standards

- 8 Based on work carried out up to the end of December 2008 the internal auditor is of the opinion that the Council's control systems are adequate, that its internal control framework is improving and that it is effective in implementing recommendations where problems are found. However, there were a number of important areas where the auditor considered that improvements were required to strengthen the Council's control framework. These included creditors, debtors, cashiers and payroll. An Action Plan is in place in each case to remedy weaknesses identified and this will be followed up until complete. An end of year report will be made to the Audit and Performance Committee summarising all the work carried out in 2008/09 and giving an overall opinion on the Council's control environment.

- 9 A continuous programme of benefits fraud investigations is conducted which had resulted in 7 prosecutions, 18 official cautions and 46 administrative penalties between April and December 2008. The counter fraud team also staffs the Fraud Hotline, participates in the regular (NFI) data matching exercise and carries out investigations into parking permit fraud and all other cases of suspected fraud or irregularity. Monitoring statistics indicate that the Council experiences a low incidence of internal fraud.

- 10 In addition to undertaking investigations the counter-fraud team also carries out an annual programme of pro-active counter-fraud work. This includes undertaking specific projects in high risk areas, updating the anti-fraud and corruption strategy, awareness raising activities and intelligence gathering in respect of frauds happening elsewhere. This includes the production and distribution of posters and leaflets advertising the Fraud Hotline as well as advertising in the local press. The Council also participates fully in the Audit Commission's National Fraud Initiative which seeks to match data from a number of public sector sources in order to identify potential fraudulent activity.

External Audit Activity

1. The Council is subject to an annual programme of independent external audits and statutory inspections. The external auditor reports on the Council's governance, performance and accounting arrangements and highlights any material weaknesses that need to be addressed. There is an annual Use of Resources assessment which examines compliance with best practice in the management and control of financial resources.
2. The external auditor publishes a number of reports, most notably an Annual Governance Report and an Annual Audit and Inspection Letter. These reports are reviewed by the Audit & Performance Committee in fulfilment of its governance role.
3. The most recent governance report relates to the financial year 2007/08. It summarises the significant findings, conclusions and recommendations arising from external audit work. It concludes that the Council has made proper arrangements to secure economy, efficiency and effectiveness of its use of resources, that the financial statements fairly reflect the financial transactions of the Council, and that the audit has not identified any material weaknesses in financial control.
4. The auditor has recently completed the annual use of resources assessment. The assessment is derived from work focusing on five themes – financial reporting, financial management, financial standing, internal control and value for money. The Council has been assessed as performing strongly and has achieved an overall score of four (the highest available) for the year 2007/08. Internal control as a theme (which includes arrangements for ensuring probity and propriety in the conduct of the council's business) also achieves the maximum score of four.
5. The Annual Audit and Inspection Letter 2007/08 is due to be issued in March 2009.

Ethical Governance Complaint monitoring

The definition of an ethical governance complaint as endorsed by the Standards Committee is as follows:

An alleged breach of the high standards of ethical conduct set out in the codes of conduct for officers and Members.

As indicated in the table below for the period commencing 1 April 2008 to 31 December 2008 the Council has received a total of 2060 complaints. For the same period in the previous year 2929 complaints were received, and this represents a total reduction of 869 complaints. The figures quoted include complaints made under all 3 stages of the Council's complaint procedure together with first time enquiries investigated by the Local Government Ombudsman.

Table 1: Total numbers of complaints

Complaints nos from 01/04/07 to 31/12/07	Stage 1	Stage 2	Stage 3	LGO
CityWest	950	109	37	11
Parking	205	31	15	14
Housing Nds	183	34	11	9
Finance	90	16	6	8
E & L	137	12	6	2
Education	44	2	1	3
Community P	39	6	2	0
Transportation	38	2	0	0
Planning	26	5	3	1
Legal Services	0	1	1	0
Total	1712	218	82	48

Using the definition of what constitutes an ethical governance complaint Departments were asked to determine if any have been dealt with under the Council's Complaint procedure. All have provided a nil return except CityWest Homes (CWH) which has reported receipt of 1 complaint. A summary of this complaint can be found below.

It is not unusual for Departments to report that virtually no ethical governance complaints have entered the complaints procedure as it is a matter of general practice that allegations of this nature are usually dealt with under the Council's disciplinary code or referred to Internal Audit for investigation as appropriate.

A summary of the ethical governance complaint reported by CityWest Homes

The concern was registered as a Stage 1 complaint and the allegation was that an Estate Team Manager misused his position by providing information to a License Review Committee in support of a licence application made by a public house. The letter in support of the application was sent on CWH headed paper, and it also provided information which may be against the Data Protection Act.

The matter has been referred to CWH Human Resources Team (HRT) to decide if the manager concerned has breached the disciplinary procedure.

Current status of the complaint

At the time of drafting this report the HRT investigation was still ongoing. However, CWH has confirmed that this matter should never have been logged as a Stage 1 complaint, as this is against any guidance provided to managers on this matter.

City of Westminster Procurement Activity

The procurement function at the City Council is currently being considered as a part of the Chief Executive's strategic management group review. This will look to consider how staff can be best supported in complying with procurement regulations and achieve value for money.

The award and management of contracts is guided by the City Council Procurement and Contracts Code. The current Procurement and Contracts Code took effect on 2nd July 2007 and outlines policy and procedures for the procurement of goods, works and services at the City Council. The Code establishes the rules and regulations that must be followed by all Members and staff of the City Council when undertaking procurement processes.

A Procurement Interactive Guide has also been developed on the Council's internal website to primarily assist staff in understanding the requirements of the Code.

The City Council has clear governance arrangements in place. Service Cabinet Members are responsible for the award of contracts over £1.5m. The Contracts Review Board (CRB) oversees contract letting and management within the City Council. CRB considers the let of all major contracts over the value of £1.5m before the relevant Cabinet Member. It also encourages contract policy development, provides strategic advice, and defines and disseminates best practice.

A Department Contracts Board (DCB) covers each department or group of departments to provide contract and procurement advice and approval up to the value of £1.5m.

Companies looking to bid for City Council contracts are asked during the pre-vetting and tender stages to submit information on equality and environmental issues amongst other things.

The City Council sets a number of ethical requirements on contractors through its standard terms and conditions including environmental, equal opportunities and complaints on service.

Monitoring reports are submitted to DCBs for contracts with a value of more than £50,000 on a minimum of a six monthly basis. Exception based reports are submitted to DCBs if there has been an incident or serious under performance by a contractor.

Work has been developed around the sustainable procurement agenda where guidance has been provided to staff on considering the environmental impact of contracted services and integrating equality and diversity considerations. In light of this advice environmental and equality factors have been built into a number of contracts at the letting and management stages during 2008/09.

The City Council is continuing to work with the Westminster Small and Minority Business Council to provide support to local small and minority businesses. A range of events have been held over 2008/09 aimed at upskilling local businesses in bidding for public and private sector contracts. A publication to assist businesses to understand the City Council procurement processes was also developed and placed on the Council website.

Further work is planned for 2009 as a part of the Economic Recovery Programme to further develop opportunities for local businesses in the supply chains of the City Council and other major businesses and for local residents in training and employment within contracted arrangements.

Appendix E

- (a) **Investigations under the Council's formal disciplinary procedure:** Details of these throughout the authority, categorised by issue, are set out in Appendix E (i) Details of all cases are monitored by Central HR who review these and flag up any issues arising. The level of disciplinary investigations is regarded as normal in an organisation the size of the City Council.
- (b) **Code of Conduct for Council Employees:** The Code is now available on the Wire, as is the associated comprehensive Handbook under the Local Government Act 2000. The Council's Code has been implemented in advance of the finalisation of the long-awaited English model Code of Conduct under the Local Government Act 2000. The Head of Legal Services reported on the Council's response to the most recent consultation exercise on the model code to the last meeting of this Committee. It is not anticipated that major changes will be needed to the current Council's Code for it to comply with the national model code, when and if this is finalised.

As reported before, the Code is a collation of the Council's expectations and requirements of its employees, including declarations of interests and outside employment. It also tells employees what to do when they see things going wrong, e.g. whistleblowing. The Handbook was designed to provide employees with practical advice on what the Code means in practice and in day-to-day work situations. The Handbook reproduces each Code item and follows this with advice. References to relevant Council policies and procedures are included and these will be converted into links.

The Code and Handbook have been adapted for use in schools, and these "bespoke" items have been recommended to Westminster schools by the Council. The governing body of each school has to formally adopt Code and Handbook. This has not presented a problem in Community and most Voluntary Aided Schools, although the Anglican Diocese seems to have some reservations about applying the Code and Handbook in their VA schools. A representative of the Director of Human Resources will meet the Diocese and try to resolve the situation.

A full programme to publicise the Code and the Handbook was postponed lest it be lost while the "Reward" programme was implemented. Now that these activities are mostly out of the way, a publicity campaign is imminent so that staff are made aware of the Code, Handbook, and their implications.

- (c) **Protected Disclosures (Whistleblowing):** In 2008 there were three recorded cases which were raised under the whistleblowing policy or via the grievance procedure. One case, concerning adherence to the Council's declarations of interest policy, has been concluded. Still under investigation are a case concerning management oversight and financial administration, and another concerning data security. In addition, there were two alleged protected disclosures which only came to light as part of applications to the Employment Tribunal – the complaints were made to a third party.

(d) **Staff Training on Ethical Governance:**

A working group covering different governance areas has developed training on "Understanding Local Government and Ethical Governance". The first general half-day session was held on 16 October 2008 and a session for planners was held on 5th December 2008. Feedback has been positive. Further sessions have been arranged and will take place throughout 2009.

STAFF DISCIPLINARY CASES 2008

Category of misconduct under investigation and outcome <i>Schools data in italics</i>	No. of cases
Inappropriate behaviour/language towards a child: 2 <i>No case to answer</i> 1 <i>Final written warning (held on file indefinitely)</i> 1 <i>Written warning</i>	4
Inappropriate behaviour/language towards a vulnerable adult: No case to answer	1
Inappropriate behaviour/language towards a member of staff/public: Resignation Final written warning (held on file for 2 years, reviewed yearly thereafter) <i>Formal action reverted to informal action</i>	2 4
Under the influence of drink in the workplace: Resignation <i>Dismissed</i> <i>Resignation</i>	1 2
Loss of trust and confidence: 2 No case to answer 1 Dismissed, then reinstated upon appeal 1 Dismissed with notice	4
Fraud: 2 Dismissed without notice 2 Resignations <i>No case to answer</i>	4 1
Working hours/lateness for duty: Resignation <i>Formal action reverted to informal action</i>	1 1
Failure to observe Council's Standing Orders: Resignation	1

Negligence in Performance of Duties: No case to answer Resignation Demotion <i>Formal action reverted to informal action</i> <i>Final written warning</i>	3 2
Failure to disclose information about previous convictions when completing CRB disclosure form: No case to answer <i>1 Resignation</i> <i>4 No case to answer</i>	3 5
Unauthorised absence: Final written warning Resignation <i>1 Resignation</i> <i>2 Dismissed</i>	2 3
Sexual Misconduct Resignation <i>Dismissed</i>	1 1
Use of Council information for purposes other than for business of the Council: Resignation <i>Formal action reverted to informal action</i>	1 1
Any other misconduct of a similar gravity Resignation <i>No case to answer</i>	1 1

Member Conduct and Related Issues

1. One Member was the subject of a complaint to the Standards Board for England, prior to the transfer of responsibility for the determination of these. The case related to a complaint where the Councillor in question has failed to respond to correspondence. Without conducting a formal investigation the Standards Board for England ethical Standards Officer concluded that no breach of the Code of Conduct had occurred.
2. Members continue to provide updates to their Register of Interests form and are reminded to do so every 3 months. Every year Members and co-opted Members are sent their Register of Interest form for checking and updating.
3. The Standards Committee approved the establishment of Sub-Committees and procedures for the local determination of complaints. The new local determination process has been advertised by posters in each of the Council's libraries and One Stops. A form and details of how to make a complaint relating a breach of the Members Code of Conduct has been prepared and placed on the Council's website.
4. The Standards Committee has responded to the Government consultation on Codes of Conduct for Local Authority Members and Employees.
5. The Standards Committee has been increased in size and comprises 12 Members, 4 of whom are Independent Members. The Committee is chaired by an Independent Member and the Vice Chairman is also an Independent Member.
6. The Standards Committee noted and endorsed the protocol or guidelines produced in consultation, with Councillor Robert Davis and Sir Simon Milton and the GLA's Lawyers to avoid potential conflicts of interest following Sir Simon Milton's appointment as a special planning adviser to Boris Johnson, the Mayor for London. No issues have arisen but it is felt appropriate to review the protocol which has been in operation since its adoption by the Standards Committee on 14 July 2008 now that Sir Simon Milton is no longer a member of the Council and his role at the GLA has been clarified and there is greater knowledge about how the Mayor will intervene in major planning decisions will operate.
7. The Standards Committee has agreed 3 applications for dispensations from the Members Code of Conduct to allow the members concerned to consider a planning application submitted by another member of the Council.

Summary of the Work of the Audit and Performance Committee

Over the last 12 months, the Audit & Performance Committee has considered the Annual Audit & Inspection Letter, which provided an overall summary of the Audit Commission's assessment of the Council based on its work during the course of the 2007/08 financial year; and has discussed the Audit & Inspection Plan for 2008/09. The Committee also approved the Internal Audit Plan and considered regular updates on progress and key findings.

In June 2008, approval was given to the City Council's Annual Governance Statement and Action Plan, which was an important statutory disclosure and key mechanism for review, aimed at securing continuous improvement of the effectiveness of the Council's control systems. The Committee also reviewed and approved the Annual Statement of Accounts as well as considering the associated Annual Governance Report of the external auditor. Other areas considered by the Committee have included the Annual Complaints Review for 2007/08 with witnesses attending from CityWest Homes and Parking, the Local Area Agreement targets which would contribute to Westminster's ongoing risk assessments and the Annual Contracts Review which detailed both the contracts had been let by the Council during 2007/8 and the performance of all contracts.

The other key area which the Committee reviewed was the investment strategy and internal controls following the freezing of Council assets held on deposit when Icelandic banks collapsed in September 2008. Subsequent to this, KPMG undertook a review of the investment processes which the Committee considered and have subsequently monitored the implementation of the associated recommendations at the meeting on 18 February.

The work of the Committee most relevant to this report has continued to be taken forward by the Committee's Process & Audit Working Group, which has focussed on specific issues such as compliance in the Corporate Property division, a review of the Risk Management Strategy, anti-fraud work in ParkWest and the National Fraud Initiative.