

Ethical Framework Update

Standards Committee

Date: 29 January 2007

Author: Director of Law and Democratic Services (Monitoring Officer)

Wards Affected: All

Purpose

- To provide an update on various matters related to the Ethical Framework.

Recommendation

- That the Ethical Framework update be noted.
- That the Director of Law and Democratic Services be authorised to carry out the public advertisement and appointment process for Lay Member vacancies on the Standards Committee and to recommend appointments to Council.
- That the Director of Law and Democratic Services undertake a further desktop audit of ethical standards against criteria in the IDeA toolkit and report back to the next meeting.

1. Reasons

- 1.1 To keep the Standards Committee informed of issues of probity in the Council.

2. Detail

Lay Memberships

- 2.1 Mr Trevor Davies was appointed as a lay member for a 3-year term of office from May 2004, and therefore his seat on the Committee is due for re-advertisement in April 2007. The position advertised would be a 4 year term appointment to run up to April 2011.
- 2.2 The Relevant Authorities (Standards Committees) Regulations 2001 stipulate that a lay person cannot be a member of the Standards Committee unless:
 - The appointment is approved by a majority of the Members of the Council.
 - The position is advertised in a local newspaper.
 - The person has submitted an application to the Council.
 - The person has not within the period of five years immediately preceding the date of appointment been a Member or Officer of the Council.
 - The person is not a relative or close friend of a Member of the Council.

Further information on the subject of this report can be obtained from Stephen Taylor on Direct Dial on 01793 463012 or Email staylor@swindon.gov.uk.

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- 2.3 There is no prohibition on independent members standing again for a further term, if they so wish.
- 2.4 The Committee is asked to authorise the Director of Law and Democratic Services to carry out the appropriate public advertisement and appointment process for this and any future vacancies on the Standards Committee and to recommend appointments to Council in accordance with the current procedure.

Implications of the Livingstone Case.

- 2.5 Following the High Court decision in the Livingstone case a more restrictive view needs to be taken of when the Code of Conduct can apply to the actions of a Member. The Standards Board for England has issued Guidance to set out the position, as the Board currently understands it. A copy of the Guidance is attached at Appendix '1'.

Local Government and Public Involvement in Health Bill.

- 2.6 Summarised below are the current proposals in the Local Government and Public Involvement in Health Bill, which relate to ethical standards and politically restricted posts. The Bill follows on from the Local Government White Paper 'Strong and Prosperous Communities', which was issued in October 2006:
- The Code of Conduct requirements will not be limited to Members acting in their official capacity (cf *Ken Livingstone v Adjudication Panel for England*). Members will have to sign a new declaration. The change will be retrospective but not retroactive.
 - Complaints of breaches of the Code of Conduct will be made to local Standards Committees instead of the Standards Board for England unless the Standards Board intervenes. The Standards Committee can refer it to the Monitoring Officer or the Standards Board for England or decide to take no action. The complainant will have the right to require the Standards Committee to review its decision.
 - The Standards Board for England's general powers will be broadened. It will be able to require authorities to send them periodic returns about complaints and casework and about the functions of the Standards Committee and Monitoring Officer.
 - Standards Committees will have to be chaired by an independent member.
 - Regulations may provide for the creation of joint Standards Committees.

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- There are a number of technical amendments to the ethical framework legislation.
- Standards Committees will decide appeals about the inclusion of a post on the list of politically restricted posts.

Revised Members' Code of Conduct

- 2.7 The proposed revised Code of Conduct was due to be issued for consultation by the Secretary of State in November 2006. Following discussions on 13th December 2006 with stakeholders, including the Standards Board for England and the Association of Council Secretaries and Solicitors (ACSeS), it was understood that the revised Code would be issued for consultation on or about 12th January 2007. It has not yet been issued although it is expected imminently.
- 2.8 When the proposed Revised Code is issued, it is anticipated that there will be a truncated consultation period of 6 weeks and subject to parliamentary time being made available, the intention is for the Revised Code to be in place by the end of March 2007, in time for its adoption by local authorities and its introduction following the May 2007 Council Elections. The timescale to enable this to happen and provide the necessary training will be challenging and an extraordinary meeting of the Standards Committee may need to be convened to consider this matter further.

Standards Board Publications

- 2.9 The Standards Board has issued a range of publications highlighting key issues of note for Standards Committees and Parish Councils.
- 2.10 Attached at Appendix '2' are Standards Board Case Alerts 2 and 3. Alert 2 looks at the case of a former mayor disqualified for inappropriate conduct towards a clerk and the distinction between legitimate criticism of council officers and disrespectful behaviour. Alert 3 analyses the implications of the High Court judgement concerning the Mayor Livingstone case for freedom of speech and members' private conduct. This should be read in conjunction with the Guidance previously referred to in paragraph 2.5 of this report.
- 2.11 Attached at Appendix '3' are the Standards Board Bulletin for November 2006 (Issue 31) and The Town and Parish Standard for November 2006 (Issue 8).
- 2.12 The Case Review (Number Four) publication is circulated to Members of the Committee with this agenda. This is an annual publication from the Standards Board giving key legal advice and developing policy in relation to the Code of Conduct, arising out of investigations conducted. It is also

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available on the Standards Board website should members of the Council wish to access it. A paper copy of the publication is available from the Monitoring Officer should any member require this.

- 2.13 The Monitoring Officer will highlight key areas of interest at the meeting.

Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum

- 2.14 The latest meeting of the Forum was held on Friday 27th October 2006 at Wiltshire County Council, County Hall, Trowbridge. The Vice-Chair attended the meeting and is happy to answer any questions on it.
- 2.15 Attached at Appendix '4' are a copy of the minutes of the meeting, notes from the Vice-Chair, Mr Trevor Davies, and a copy of the presentation given by Mr Stephen Callender, Policy Adviser from the Standards Board.

Work Programme 2006/07 Update

Revision of Media Guidelines for Members

- 2.16 At the last meeting, the Committee agreed for consultation the revised Media Guidelines for Members, which form part of the Constitution and of the Communications Strategy.
- 2.17 The Head of Communications is currently consulting with Members on the revised Media Guidance for Members and will report back with the Guidelines for final approval to the next Standards Committee.
- Ethical Audit*
- 2.18 The Ethical Audit Working Group carried out a desktop audit of the authority on 19th January 2005 against the criteria set out in a Ethical Audit Toolkit prepared by the IDeA (Improvement and Development Agency). A copy is attached at Appendix '5'.
- 2.19 This was reviewed by the Committee in June 2005 who confirmed that this demonstrated compliance with all the elements required for the ethical framework and all the necessary processes and procedures were in place. Key actions were agreed in relation to a small number of areas including Ethical Training for Officers, Training for Parish Councils, Members Training, and these have been carried out.
- 2.20 It is recommended that the Monitoring Officer refresh and update the desktop audit and report back to the next meeting of the Committee so that a gap analysis can be carried out and the Committee determine appropriate next steps.

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Alternative Options

- None

Risk Management

Financial and Procurement Implications

- None

Legal / Human Rights Implications

- The Relevant Authorities (Standards Committees) Regulations 2001 set out the requirements for the membership of Standards Committees, including the appointment of lay members.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

- Monitoring of issues of probity in the Council underpins the Council's plans and policies and to the delivery of the 2010 objectives.

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- Chief Executive
- Group Director, Resources
- Head of Communications

Background Papers and Appendices

- Appendix 1 – Standards Board Guidance – Implications of the Livingstone Case
- Appendix 2 - Standards Board Case Alerts 2 and 3
- Appendix 3 – Standards Board Bulletin for November 2006 (Issue 31) and The Town and Parish Standard for November 2006 (Issue 8).
- Appendix 4 – Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum – Minutes of meeting, notes from the Vice-Chair (Mr Trevor Davies) and a copy of the presentation given by Mr Stephen Callender, Policy Adviser from the Standards Board.
- Appendix 5 - Ethical Audit Desktop Audit dated 19th January 2005