

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at the Jeffery Room,
Guildhall on Tuesday, 10 April 2007 at 5:00 pm.

John Edwards
Interim Chief Executive

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
- 5. CPA PROGRESS REPORT F.
Fernandes
x 7334
Report of Solicitor to the Council (copy herewith)
- 6. UPDATE ON PROPOSED CHANGES TO THE MODEL CODE OF CONDUCT F.
Fernandes
x 7334
Report Solicitor to the Council (copy herewith)
7. CLLR STEWART F.
Fernandes
x 7334
Solicitor to the Council to Report
- 8. ETHICAL GOVERNANCE HEALTH CHECK/ AUDIT J. Buckler
x 7341
Report of Solicitor to the Council (copy herewith)
9. PROTOCOL FOR MEMBERS ON OUTSIDE BODIES F.
Fernandes
x 7334
Report of Solicitor to the Council (copy to follow)
10. EXCLUSION OF PUBLIC AND PRESS
THE CHAIR TO MOVE:
"THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT."

SUPPLEMENTARY AGENDA

**Exempted Under Schedule
12A of L.Govt Act 1972
Para No:-**

11. COUNCILLOR ISSUES
Solicitor to the Council to Report

(1)

F.
Fernandes
x 7334

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Appendices



NORTHAMPTON
BOROUGH COUNCIL

Item No. 5

Name of Committee:	STANDARDS
Meeting Date:	10 th April 2007
Directorate:	Finance, Governance and Citizens Francis Fernandes Solicitor to the Council
Corporate Manager:	
Agenda Status:	

Report Title	CPA Progress Assessment
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Recommendations

That the position be noted.

Background

In February 2007 the Audit Commission published a 'Progress Assessment' on the Council's progress from the assessment made since the 2004 Comprehensive Performance Assessment (CPA).

In summary the progress assessment says, Northampton Borough Council has made little progress since 2004, and has deteriorated in some key areas since the last progress assessment. Its weakest services, whilst showing some improvement, continue to be among the worst in the country. Some key services, such as planning, have deteriorated.

Weak political leadership is also undermining improvement. The administration has failed to provide clear political direction, and leadership has been further weakened by a recent breakdown in cross-party collaboration. Poor councillor leadership and behaviour continues to be detrimental to improvement.

Managerial leadership is inadequate and has weakened since the last assessment. The Council still does not have a stable and cohesive senior management team. A lack of strong leadership, inward focus and preoccupation

with operational issues is leading to a lack of strategic direction. Managerial leadership is having insufficient impact on the pace of change and on ensuring clarity and consistency of purpose and direction.

Progress is slow in developing inclusive overall ambitions for the area. A vision is beginning to take shape and priorities are emerging, but it has not yet been agreed by key partners or influenced the Council's plans. The Council has begun to consult local people more widely on its plans, but cannot be sure that the emerging vision and ambitions reflect the needs and aspirations of all its diverse communities. This is because it has not robustly incorporated the views of those groups who do not traditionally have a voice. There has been little progress in terms of the Council's visible and effective engagement with strategic partnerships at a county-wide and sub-regional level, and partners lack confidence in the Council's community leadership, particularly on important issues such as the planned growth of the area's population to almost one and a half times its current size.

Financial management and capacity is poor and has weakened in the last six months. Capacity within the finance function is seriously compromised by a lack of consistent financial leadership, limited professional expertise and a reliance on interim appointments. New systems have been put in place to more accurately monitor spending but the Council does not yet have a clear picture of the likely out turn for the current year. There is likely to be a significant financial shortfall caused by inaccurate budget setting in the past. This will impact on the Council's ability to finance its future plans. It does not yet have a robust medium-term financial strategy.

The Council has invested in new management and new structures and processes to deliver improvement but there has been little noticeable impact on services. Mechanisms for securing continuous improvement in services are inadequate. Improvements in human resources have reduced sickness absence but there are some significant gaps in capacity brought about by the departure of key staff in Finance and Planning which is having an impact on the Council's ability to improve. The Council is still developing its awareness and understanding of the weaknesses that remain and the amount of improvement needed. It continues to seek learning but does not always use it to improve. The quality and robustness of future plans remains weak.

Overall, the Council is not consistently and sustainably improving its most poorly performing priority services. The pace of change is slow in some areas that have a direct impact on quality of life for vulnerable people, and its weakest services remain among the worst in the country. Housing remains a poor service. The Council is now processing benefits claims more quickly but still compares poorly with other councils and accuracy remains poor with a high level of overpayments. The planning service is poor with deteriorating performance in how quickly it determines planning applications. The Council is achieving mixed improvement in other priority service areas such as environmental services. Together with partners the Council is helping to reduce some crime rates, although they remain comparatively high. Customer services and access is improving.

Appendices



**NORTHAMPTON
BOROUGH COUNCIL**

Item No. 6

Name of Committee:	STANDARDS
Meeting Date:	10 April 2007
Directorate:	Governance Resources and Improvement
Corporate Manager:	Francis Fernandes Solicitor to the Council

Report Title	Update on Proposed Changes to the Model Code of Conduct
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Recommendations

That the Committee note the proposed changes to the Model Code of Conduct and the response made by the Association of Council Secretaries and Solicitors

Background

1. The DCLG published a consultation paper on 22 January 2007 seeking views on a draft revised code of conduct for members. The closing date for responses was 9 March 2007.
2. The draft revised Code has been issued following the announcement in the Local Government White Paper *Strong and Prosperous Communities* published in October 2006 of the Government's intention to put in place a clearer, simpler and more proportionate Code. Prior to the draft revised Code being issued, the Standards Board for England consulted on the principles for a revised Code in 2005. The DCLG (then the Office of the Deputy Prime Minister) issued a discussion paper entitled *Standards of Conduct in English Local Government: the Future* in December 2005 which included the Government's response to the Standards Board's recommendations on proposed changes to the Code.
3. The consultation paper was issued to both the members of the Committee and the Parish Councils inviting comments. No responses were received.

Summary

1. Members have already received the Consultation document, however it may be helpful to summarise the main proposed changes:
 - 1.1 the rules have been amended so that notwithstanding a prejudicial interest, members may with the consent of the meeting attend meetings to make representations, answer questions and give evidence. This will particularly benefit members who may, for example, wish to make representations on planning and licensing applications which affect their own property or neighbourhood;
 - 1.2 there is a new category of "public service interest" which makes the requirements for members appointed or nominated by the authority to outside bodies less onerous. The interest is only declarable if the member speaks on an item in the meeting and it is only prejudicial in limited circumstances;
 - 1.3 the personal interest test relating to family and friends has been widened to include individuals with whom the member has a "close personal association", the Standards Board will issue guidance on how members should interpret this but it is anticipated that the definition includes business and professional associates. The requirement for a member to disclose interests relating to a family member, friend or person with whom they have a close personal association is limited to those that the member is aware of or ought reasonably be aware of. Also, the personal interest test has been defined as one which affects the member to a greater extent than the majority of their ward residents thereby reducing the likelihood of there being a personal interest;
 - 1.4 the unlawful discrimination provision is to be replaced by a duty that members should not do anything that would seriously prejudice their authority's statutory duties in regard to equality. This will allow action to be taken on some discrimination issues that have previously been outside the scope of the Code;
 - 1.5 bullying is specifically referred to in the Code and its definition will be clarified by Standards Board guidance;
 - 1.6 the whistleblowing duty to report breaches by other members has been removed;
 - 1.7 members will be able to disclose confidential information where the disclosure is in the public interest. The Standards Board will issue guidance on how to apply the public interest test;
 - 1.8 certain behaviour outside of official duties will be regulated but the proposal is that this should be limited to behaviour found to be unlawful by a court;

- 1.9 the provision on use of an authority's resource is to be extended to include having regard to the Government's Code of Recommended Practice on Local Authority Publicity. The definition of "political purposes" has been clarified as "including party political purposes";
 - 1.10 the Draft revised Code prohibits the intimidation of any person involved in an investigation, including the complainant, witnesses and officers of the authority; and
 - 1.11 members will be required to register gifts and hospitality over £25 in the register of interests and to declare these at meetings within 5 years of the date of registration.
2. The timing and implementation of the revised Code following the consultation process has not yet been finalised although the Standards Board have advised the Government are still expecting to table the revised code in Parliament and have it in force on 3 May 2007 to enable local authorities to adopt the Code after their annual meetings in early May.

Response to Consultation

Appended to this Report for the information of the Committee is the response made by the Association of Council Secretaries and Solicitors.

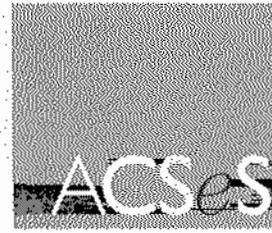
Options and Evaluation of Options/ Risk and Opportunity Issues

Report to be noted.

Resource Implications

An Appropriate Budget and Resources will be required by the Monitoring Officer to carry out his functions in relation to Standards.

Jackie Buckler
Procurement & Practice Team Leader
4 April 2007



Association of Council
Secretaries and Solicitors

Meic Sullivan-Gould
President 2006/07

8 March 2007

William Tandoh
Local Democracy Directorate
Department for Communities & Local Government

Dear Mr Tandoh

CONSULTATION ON REVISED CODE OF CONDUCT FOR MEMBERS

I write as President of the Association of Council Secretaries & Solicitors (ACSeS), in respect of the above mentioned Consultation Paper, which was issued in January 2007.

As you know, our Association represents Monitoring Officers, Chief Legal Officers (and Deputies) of local authorities in England and Wales and we have already worked collaboratively with you and the Standards Board for England, to ensure, from a practitioner's perspective, that the Revised Code is fit for purpose. Mirza Ahmad, Chief Legal Officer at Birmingham City Council, has led on ACSeS' response and if he or I can be of any further assistance in terms of these (or any comments from other local authorities), please do not hesitate to contact us. There has been extensive involvement by our membership in creating this response and we have held conferences in London and Leeds where the draft revised code has been discussed.

You will appreciate that Association members are the officers within each principal council to whom elected and appointed Members turn for advice on the application of the Code of Conduct and who have responsibilities to enable compliance with the Code through training, support and, ultimately, local enforcement. The Association would therefore be grateful if you and colleagues would take close account of the following response:-

1. The Revised Code:-
 - Seeks to make the obligation to promote equality a matter of Member conduct despite the outcome of a recent case on the current code; we welcome that intention and are broadly comfortable with the provision:
 - Applies an additional limitation to the obligation not to disclose confidential information (when reasonable and in the public interests,

in good faith and not in breach of the reasonable requirements of the local authority); this will enable Councils to ensure that the Freedom of Information legislation is aligned to their information management practices; again, this is a revision that we are comfortable with:

- Modifies the well-being personal interest to relate only to the Ward (where applicable) rather than the whole of the authority's area; we consider that this will make the application of declaration of interests that much clearer and easier for Members and will avoid the proliferation of declarations of immaterial personal interests at meetings:
- Limits the obligation to disclose a personal interest of a family member, friend or person having a close personal or business association, to those that a Member is aware of, or ought reasonably to be aware of; we believe that this is an improvement on the current Code, but the definition of the terms should be contained in the Revised Code so as to ease comprehension for all and to contain all necessary references in one document for busy Councillors, instead of having to refer to another document that might not be readily available:
- Makes provision for sensitive interests to be excluded from the public Register of Members Interests in very limited circumstances and for the sensitive information not to be disclosed when other personal interests need to be disclosed; this is a sensible revision and to be welcomed, provided that the Monitoring Officer has agreed to such information not being contained in the Register. To do so otherwise, would give unlimited powers to Members to withhold relevant information without any necessary safeguards in the public interest but it would be appropriate for a Member whose request for sensitive information to be un-published is not accepted by a Monitoring Officer to have a right of review of that decision by the relevant Standards Committee;
- Creates a new category of "public service interests" as to membership of other relevant authority, public authority or body the Member is appointed to by the Authority; this is a welcome improvement in that the public service interest will not be a prejudicial interest, except in the limited circumstances of relating to the financial affairs of the body or determining of, for example, any approval, variation, consent, grant, loan, mortgage, licence, permission or registration;
- Removes the obligation to report allegations of failure to comply with the Code; this "Whistleblowing" provision, has led to many "tit for tat" inconsequential referrals between Members and its removal is welcome in order to reduce the number of unnecessary complaints; and
- Clarifies the position on interests at Overview & Scrutiny Committees and limits the definition of prejudicial interests to the circumstances of membership of the Executive or the Committee at the time of the decision and presence of the Member when the decision was made;

again, this is a helpful position and should not cause difficulties in practice.

2. In addition to the above, the following revisions to the Code of Conduct are welcome:-
 - a) Members must not bully any person;
 - b) Members must not intimidate a person involved in proceedings under the Code;
 - c) extends criminal offence example of disrepute to offences committed before taking office and the conviction taking place after coming to office;
 - d) extends the improper influence provisions to include attempting to do the same;
 - e) extends the meaning of political purposes in the use of the authority's resources and facilities provision to specifically include party political purposes;
 - f) extends the provision on the use of authority's resources and facilities to include having regard to guidance on the proper exercise of the power to issue publicity; and
 - g) imposes a requirement to disclose and publicise the receipt of a gift or hospitality as a personal interest.
3. Having said that, we would comment that the bullying provision should also include harassment and victimisation. Furthermore, the definition of bullying should be able to capture one-off acts or inactions and not require a series of actions or inactions. In addition, the convictions requirement should be extended to cautions that may be registered against any Member. We would suggest that there are other judicial findings against individuals which could be given as examples of personal behaviour which could be examples of conduct which brings the office of councillor into disrepute; for instance, that an otherwise proper decision of a Council has been found to be unlawful because of bias or pre-determination on the part of an individual Member. It is not appropriate for an officer organisation to express any view on the reasonableness of the figure of £25.00 as the appropriate level of value for gifts and hospitality over which a personal interest will arise but we would suggest that there needs to be consistency of treatment for all elected and appointed political representatives. Any figure should, however, be index-linked or reviewed every two years to ensure it is up-to-date. We do wonder whether it is practical to legislate that such gifts create obligations of declaration for as long as 5 years – we suggest that expecting councillors to recollect the previous 2 years is sufficiently rigorous.
4. At the risk of being accused of having been engaged in "drafting by Association" we have used the professional skills of our membership to produce a redraft of the Revised Code of Conduct for Members that we consider to be necessary to provide greater clarity and certainty to the Revised Code. Attached is a document which contains "tracked" changes to the published draft which we hope will assist.
5. Broadly speaking, the Association is comfortable with the Revised Code of Conduct changes, which are welcome. There are, however, matters of detail, as indicated in the "tracked" changes, that do need to be spelt out to the Government from a practitioner's perspective. We are, for example, deeply concerned to note that the Government's proposed local filter arrangements

envisage all written complaints being considered first by the Standards Committee (or a sub-committee of it). Operationally, this will create a need for more meetings of the Standards Committee and, as most deal with matters in the public agenda instead of the private agenda, there is a real risk that alleged complaints are "aired" in the public meetings in the presence of the press and the public, even before the Elected member has had an opportunity to comment on the same. This could lead to a "trial by media" and, as such, it will not protect or safeguard the human rights of the Elected Member.

6. We believe the "initial sieve" must be by the Monitoring Officer, in consultation with the Chair of the Standards Committee, so that frivolous or vexatious complaints are dealt with appropriately. Our "tracked" changes are made on the assumption that the Government is intent on ignoring these practical difficulties for local government and, as such, the "tracked" changes seek to make the best of the Government's position for Members / Officers / citizens.
7. The draft Regulations involve the production of a single model code (rather than the 4 current models) and, as such, this is a welcome development. The Revised Code also modifies the effect of the "Richardson case" in order to allow a Member to make certain representations despite having a prejudicial interest. This would allow a Member to attend a meeting for the purpose of making representations, asking questions or giving evidence, provided, we suggest, that the relevant Standards Committee (rather than the meeting itself) has agreed to a general dispensation that it is not a breach of Code to exercise any statutory or locally decided public access rights to the decision-making process and subject to the Member then withdrawing from the room for the decision-making process on that item of business, as the Member should be prevented from taking any part in the decision-making of the relevant body. The Member should, however, be allowed back into the room to hear the decision of the Committee on that item of business, with reasons. To do so otherwise, would be perverse in the extreme and would mean that the public knew about the decision with reasons well before the Member was formally notified by the Committee Clerk. That, we strongly suggest, is not good governance.
8. In terms of the Local Authority Code of Practice, this is currently issued by a Government Department and in our view, there are relevant provisions which should be applicable regardless of the implementation of any Revised Code of Conduct for Members. However, the opportunity should be taken for local government – and in particular in this context the Local Government Association or any successor body – to issue a national code as opposed to the same being issued by a Government Department.
9. In terms of major omissions from the Revised Code of Conduct, the Revised Code does not, currently, include a preface to the 10 General Principles of Public Life applicable by Statutory Instrument for local authorities. We believe local authorities should have the flexibility to incorporate the same as a preamble to the Revised Code (or as an Appendix to it), but that it should not form part of the Code in terms of actionable breaches under the Code.
10. One of the major criticisms of the current Code is that it is not all embracing or comprehensive; in that, it does not cover rules of natural justice, pre-determination, bias or pre-disposition and pre-determination of decision-

making by Members. The opportunity should, therefore, be taken to ensure that the Revised Code incorporates some reference (as indicated in the attached "tracked" changes document) so that Members and Monitoring Officers are clear that the Revised Code, and any guidance that may be given in relation to the same, emanates from the Revised Code.

11. In terms of other matters in relation to the Ethical Framework for local government, it is disappointing to note that the Code of Conduct for Officers has still not emerged; that in relation to the "relocalisation" of complaint handling the investigatory powers of Monitoring Officers are not yet to be made equivalent to those an Ethical Standards Officer nor that those staff who will need to be appointed as Deputy Monitoring Officers for the purpose of investigations and the proper separation of roles in the local enforcement processes do not yet have the protections of their employment which those roles will require to ensure disinterested work in this regard.
12. For the sake of completeness, I also attach the "answers" to your Consultation questions. In respect of the "tracked" changes or the comments contained in this letter, we hope these are self-explanatory, but feel free to contact me if you are unsure about any of our comments.

May I also take this opportunity to thank the Department for the opportunities which have been given to the Association to help it address this challenging area and to hope that the Department has found it helpful to use the Association's expertise and experience in this way. I can assure you that any future requests for help from the Department or the wider central government will be constructively addressed.

Yours sincerely



Meic Sullivan-Gould

President, ACSeS.
Borough Solicitor & Monitoring Officer
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cc Mirza Ahmad – Chief Legal Officer, Birmingham City Council
(for distribution to ACSeS / LGG members / websites)

Association of Council Secretaries & Solicitors

Consultation on Amendments to the Model Code of Conduct for Local Authority Members

Answers to Questions

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Answer: *We believe that the appropriate balance will be struck once our "tracked" changes are taken into account. It is essential that local authority procedures are exhausted before any Elected Member is allowed to release confidential information. To do so otherwise would mean that an Elected Member would circumvent established procedures and could expose him/herself to unnecessary legal challenge.. Clearly, if an Elected Member disagrees with the opinion of the Monitoring Officer on any such matter, the matter could be reviewed by the Standards Committee. This review does not need to be explicitly included in the Revised Code of Conduct for Members, but would be a matter for local Monitoring Officer Protocols.*

Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Answer: *We believe that the "tracked" changes, if accepted, will address the right balance in terms of action taken by Members in their private capacity and we would commend the "tracked" changes to you.*

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

Answer: *We believe that the time has come for the relevant Government Department to retract its Local Authority Code on Publicity. We do, however, see the value of a similar Code of Conduct on Publicity being issued by the Local Government Association (or a successor body). Our "tracked" changes reflect this aspect.*

Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Answer: *We believe the £25.00 limit is fine for most local authorities, but Gifts and Hospitality over £100.00 should be the matter of a declaration at a meeting as opposed to the current limit of £25.00 and limited to Gifts and Hospitality accepted or refused in the last two years. To do so otherwise, is unrealistic and could waste Councillor time in making unnecessary declarations.*

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

Answer: *We believe that these terms need to be clearly defined in the body of the Revised Code of Conduct for Members. These terms should also include dependents of the Member not just the natural family member and. incorporate, somehow, declarations with regard to enemies, if the Revised Code is to become a comprehensive document.*

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

Answer: *We believe that our "tracked" changes provide sufficient exceptions to address the prejudicial interest requirements.*

Q7. Is the proposed text relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions, or give evidence, appropriate?

Answer: *The representational role of Elected Members is an essential requirement of a modern Councillor and we believe that the Revised Code of Conduct for Members, as per our "tracked" changes, will strengthen the role of the Councillor in representational terms.*

Q8. Is there a better, more user-friendly way of ensuring the text is gender-neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

Answer: *As per our "tracked" changes, we believe that "you/your" should be used instead of the current drafting of the Revised Code of Conduct for Members. This would obviate the need for he/she and him/her. The revisions will also be more direct and meaningful to Elected Members and avoid ambiguity.*

MEIC SULLIVAN-GOULD
PRESIDENT - ASSOCIATION OF COUNCIL SECRETARIES & SOLICITORS
8 March 2007



Item No. 8

Committee:	STANDARDS COMMITTEE
Meeting Date:	10 April 2007
Directorate:	Governance Resources & Improvement
Corporate Manager:	Francis Fernandes Solicitor to the Council

Report Title	Ethical Governance Self-Assessment Audit
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Key Decision	No
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1. Recommendations

That the Committee considers the Ethical Governance Self-Assessment Audit attached to this report and endorses the way forward set out in paragraph 4.

2. Summary

- 2.1 The Committee will recall a detailed report on the Ethical Governance Toolkit was presented at the last meeting (31 October 2006). In view of the Council's current status the Council needs to improve quickly and the adoption of the Code of Conduct, the establishment of the Standards Committee and provision of training on the code for members and employees are only steps on the road to ethical governance; the Council now needs to take stock of its current position and demonstrate it is promoting and maintaining ethical standards and has an understanding of ethical issues, the role of the Standards Committee and the Monitoring Officer and that the understanding is widespread.

- 2.2 Any toolkit providing an assessment/audit needs to be able to assess whether the Council's arrangements for maintaining high standards of ethical behaviour are robust and compliant - Do members and officers have an awareness and understanding of ethical issues? Is the Council complying with the Code of Conduct and Member behaviour? Are Members observing the Code and is the Standards Committee playing an appropriate and practical role?

In essence the ethical governance self-assessment is a reality check.

3. Background

Currently there are financial difficulties with implementing the formal diagnostic toolkit, which provides for external assistance and challenge. However the Council does not have the option of doing nothing so the Committee resolved that a self-assessment audit would be implemented as an initial diagnostic tool with a view to further exploring the more extensive tools after the May elections.

4. Way forward

- 4.1 There are many ways to approach self-assessment but clearly it will need to look at and check current procedures and practices, corporate conduct and ethical values but will also highlight deficiencies, identify vulnerabilities, potential problem areas and barriers.
- 4.2 Clearly what will not be available at this stage is an external validation of the process and outcome, but the self assessment will call for an open/honest approach and transparent process to give the assessment any credence.
- 4.3 In assessing this Council's position, it should be noted a fully effective ethical authority:-
1. is open and has good access to information
 2. has clear lines of accountability and responsibility
 3. has developed an ethical framework designed to promote high standards of conduct and to reduce/eliminate misconduct
 4. encourages, develops and maintains high standards of conduct by communication, training, development of and support to staff and members
 5. seeks to build a "bond of trust" between the Council and the Community

6. integrates the ethical framework into the design of its procedures and processes and into all the Council's operations
7. 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
8. is not complacent, is committed to improving ethical practice and standards and monitors progress; and
9. can demonstrate positive outcomes in its implementation and application of the ethical framework

4.4 Annexed to this report is the Ethical Governance Audit which I would suggest will provide for the framework of the assessment and which is based on core competencies:

- Integrity
- Accountability
- Standards Management

Each of these competencies is further sub-divided into specific behaviours and the Committee will be required to assess the Council's ethical behaviour and standards against these. The audit assists by providing for positive and contra-indicators but any evaluation/assessment will need to be clearly evidenced to eradicate the inclusion of assumptions and anticipated outcomes.

4.5 It is proposed that the Committee considers the Council's current position supported with relevant evidence and an action plan be developed from the outcomes and any resulting actions implemented. To ensure that this exercise is meaningful it should be noted that 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. So where the assessment will address the statutory requirements i.e. compliance with Part III of the Local Government Act 2000; there is also a need to consider behaviour, culture and values and it is this aspect which may prove more difficult to assess and evidence, and may require the development of a supplemental questionnaire for Members and officers.

5. Resource Implications (including Financial Implications)

5.1 At this initial stage there will not be any financial implications but to validate any diagnosis within the CPA inspecting framework the costs could range from £5,000 to £13,000.

5.2 Other resource implications relate to officer and Committee Members time.

6. Risk and Opportunity Issues

Failure to achieve high ethical standards has a consequence for Members and the Council generally. There could be a loss of credibility and confidence in local democracy, the implementation of a suitable diagnostic tool will identify how well the Council is meeting the ethical agenda, where improvements need to be made and will also address the CPA benchmarks for future assessments.

7. Consultees (Internal and External)

Internal	None
External	None

8. Compliance Issues

A: How Proposals Deliver Priority Outcomes

Recovery Plan/Corporate Plan
Embeds high ethical standards and underpins governance.
Corporate Plan

B: Other Implications

Other Strategies

Finance Comments

Legal Comments

9. Background Papers

Title	Description	Source
Ethical Governance Audit	An Audit to help establish good corporate governance and improve the ethical performance of the Council	IDeA

Jackie Buckler
 Procurement & Practice Team Leader
 Ext: 7341

Integrity

ETHICAL VISION

Definition: members and staff recognise the importance of ethical standards in local governance thus enabling the authority to construct and develop an ethical culture and values for the authority.

Positive indicators:

- evidence of a set of meaningful ethical values for the authority which meet the legitimate expectations of members, staff, the public, other individuals and organisations with which the council is involved
- evidence that these ethical values are known and used
- an understanding by members and senior managers of the ethical framework and its role in local governance
- an understanding throughout the authority of relevant ethical issues and standards
- active encouragement and promotion of high standards by senior managers and members

Contra-indicators:

- complacency about standards of conduct within the authority
- little or no awareness or understanding amongst members and staff of the ethical framework or relevant ethical standards
- evidence of inappropriate conduct by members or senior staff being accepted as an inevitable part of the political nature of local government

COMMUNICATION

Definition: dissemination of relevant information, policies, procedures and guidance on ethical standards to members, staff, the public, other individuals and organisations with which the council is involved and encouragement of listening, dialogue and feedback.

Positive indicators:

- availability to staff and members of full, accurate and clear policies, guidance and advice on ethical issues.
- evidence of good access to information for all members and the public, including appropriate policies and practice regarding exempt and confidential information.
- evidence of open attitude towards, and willingness to act on, criticism.

Contra-indicators:

- staff and members unaware of key rules and guidance on ethical standards and/or sources of advice.
- public perception or concern by some members or staff that ethical standards within the authority are poor
- evidence of discouragement of, or resistance to criticism

COMMITMENT AND LEADERSHIP

Definition: recognition by members and staff of their individual and corporate responsibility to promote and encourage high standards of conduct throughout the authority.

Positive indicators:

- active involvement by members and senior staff in setting values and standards for the organisation
- members and senior officers recognised by staff and others as having high personal/professional standards of conduct and leading by example
- understanding throughout the authority of individual and collective responsibility for the maintenance and encouragement of high ethical standards
- willingness of individuals to take action in respect of poor standards of conduct by others

Contra-indicators:

- individuals do not see themselves as having a role in ensuring appropriate conduct and high standards on the part of others
- members and staff displaying little or no interest or concern regarding standards of conduct within the authority
- leading members and/or senior officers take little or no responsibility for promoting high standards
- no sense of collective responsibility for maintenance and encouragement of high ethical standards

Accountability

ORGANISATIONAL MANAGEMENT

Definition: the authority has clearly defined and well understood roles and responsibilities for both members and staff and clear management processes for policy development, implementation and review, and for decision making, monitoring and reporting.

Positive indicators:

- an explicit commitment to transparency in conduct and decision-making
- an explicit, clear set of information on member and staff roles and responsibilities, including: the roles and responsibilities of executive members, the roles of statutory officers, i.e. the Head of the Paid Service, the monitoring officer and the s.151 officer and officer/member relations
- clearly defined lines of responsibility and accountability, demonstrated for example by terms of reference, schemes of delegation and the constitution generally
- clearly defined and understood corporate and individual responsibilities for standards
- transparent recruitment and appointment processes for both staff and members (for example in appointments to outside bodies) which are recognised throughout the organisation as having integrity
- non-executive members believing they have real ability to hold the executive to account and to make a meaningful input to policy development
- ready availability to the public of relevant information in respect of members and senior staff including, for example, up to date and easily accessible registers and declarations of interests
- opportunities for the public to raise questions and receive answers at open meetings of the council and the executive and evidence that these are used
- maximisation of meetings held in public and limited use of 'exempt information' provisions
- executive uses its discretion to maximise the role of the council in relation to the policy framework
- good forward plan of key decisions
- relative roles of the council and the executive in relation to statutory officers are clear

- evidence that the council has the ability to hold the executive to account in relation to ethical standards.
- good protocols exist for officer/member relations governing the executive, overview and scrutiny and the standards committee.

Contra-indicators:

- lack of clarity in, or understanding by members and staff of, processes for the conduct of local authority business
- evidence of members and/or staff undertaking inappropriate roles or activities, e.g. inappropriate levels and types of decision making
- poor and/or unclear information and accountability flows
- evidence of confusion in policy development, decision making and monitoring processes
- non executive members do not identify clearly with the overview and scrutiny role within the authority or consider it is defined weakly
- members, staff or the public unclear as to who is responsible for what under the new constitution
- evidence of inappropriate use of the 'exempt information' provisions to restrict access to debate and decision making

SYSTEMS AND PROCESS OPERATION

Definition: the authority operates to its defined roles, responsibilities, policies, procedures, protocols and codes, and monitors, reviews and amends these where necessary or appropriate.

Positive indicators:

- access to relevant information, resources, advice and guidance is ensured and encouraged
- recruitment and appointments processes comply with relevant standards, e.g. those of the CRE, EOC and DC, and are monitored and reviewed

- key procedures and guidance, e.g. for declaring interests, claiming expenses, offer and/or receipt of hospitality are well designed, up to date, easy to understand and operate and are followed
- effective arrangements for keeping key information, e.g. declarations and registers of interests, up to date and accurate
- effective arrangements for reporting executive decisions, particularly in relation to individual decision making.
- appropriate risk assessment is undertaken to ensure that the ethical standards, procedures and processes members and staff are required to operate are relevant, appropriate and commensurate with the level of risk.

Contra-indicators:

- the authority has an 'overload' of unnecessarily complex, irrelevant or outdated practices and procedures
- evidence that poor design, lack of clarity or absence of advice and guidance have resulted in members and staff failing to follow set procedures
- absence of responsibility for and/or regular or programmed review of key processes and procedures to ensure they are up to date and relevant
- lines of accountability are unclear or regularly breached

OBJECTIVITY AND SCRUTINY

Definition: recognition that situations of ethical ambiguity or conflict will occur and the ability of individuals to deal with these appropriately.

Positive indicators:

- individuals have an awareness of and sensitivity to problematic issues and situations, together with the ability to recognise those which are relevant to their circumstances
- clear, well used arrangements for the management of declarations and registrations of interest

- clear arrangements/mechanisms for dealing with difficult ethical situations and a willingness to use appropriate measures to deal with them
- well defined and communicated arrangements for members and staff to obtain advice and guidance
- arrangements for regular scrutiny and review of general or specific ethical issues affecting the authority, its members and staff
- the overview and scrutiny arrangements provide for an ethical standards dimension
- the authority deals appropriately with requests for dispensation in respect of interests
- there is evidence of the ability of members and staff to exercise appropriate judgement in respect of ethical standards issues
- evidence of learning from experience: the use of feedback, adapting behaviour, systems and procedures and preventing reoccurrence

Contra-indicators

- lack of common understanding, or evidence of widely differing views, within the authority regarding conflicts of interest
- inability or unwillingness on the part of members or staff to consider a situation objectively and realise how it may be perceived by the public, the media, individuals or organisations with which the council is involved
- evidence that members may be registering or declaring interests (or not doing so) inappropriately
- little or no indication that members or staff have the requisite skills or inclination to form appropriate judgements on ethical standards issues

Standards management

STANDARDS INTEGRATION

Definition: making the promotion, maintenance and development of high standards of conduct integral to all the authority's operations.

Positive indicators:

- the promotion, maintenance and development of high standards of conduct form part of the authority's vision and strategy and are acknowledged as owned by members and staff
- ethical standards are 'designed-in' to the authority's constitution, decision-making and overview and scrutiny procedures.
- ethical standards are 'designed-in' to the authority's relationships with stakeholders, including outside bodies and partners for example in grant and contract conditions and partnership protocols
- external suppliers and service providers are required, in their dealings with the authority, to operate to public sector standards, e.g. not offering or providing inappropriate gifts or hospitality to members or staff

Contra-indicators:

- evidence, for example from gifts and hospitality registers, or companies that deal with the authority, that external suppliers and service providers are unaware of public sector 'rules' and/or offer inappropriate gifts or hospitality to members or staff
- views on the part of members and officers that standards issues are separate from the mainstream activity of the authority
- evidence that standards issues are simply 'bolted-on' to aspects of the authority's systems and procedures, rather than being integral to them
- standards issues are perceived as being solely the responsibility of the standards committee and the monitoring officer and are, therefore, not owned by all members and staff
- members and staff take it for granted that high standards will be maintained without conscious effort

PEOPLE AND PRACTICE MANAGEMENT

Definition: An expectation that members and staff will operate to the highest standards of conduct, encouragement to do so, acknowledgement that, on occasions, some may fail to do so and a willingness to address this.

Positive indicators:

- active promotion of high standards of conduct.
- evidence of support to members and staff in developing and maintaining high standards.
- absence of 'blame culture'.
- availability of supportive and competent advice from line management.
- a confidential reporting mechanism which is widely known and understood and which has the confidence of members and staff.

Contra-indicators:

- perception that the organisation ignores misconduct or fails to deal with it properly
- reluctance on the part of members or staff to take action in respect of misconduct because of lack of confidence in the system
- line managers and non specialist chief officers lack knowledge and expertise to advise and support staff in relation to standards issues
- absence or lack of awareness of confidential reporting mechanism

TRAINING AND DEVELOPMENT

Définition: Recognition of the need for, and commitment to, training and development in relation to ethical standards.

Positive indicators:

- an induction programme for both members and staff which incorporates ethical standards and seeks to integrate them into all aspects of induction

- the use of mentoring schemes, in particular for new members and staff
- compulsory training in certain matters, e.g. planning and overview and scrutiny
- evidence of training which tackles 'difficult' issues, such as conflicts of interest, handling demands for special treatment, relationships with contractors, or lobbying by third parties and gives participants the skills to deal with 'real-life' situations
- commitment to and opportunities for role related skills development, e.g. how to chair an area forum, as well as specific topic based training
- provision of training and guidance for key partners, suppliers, service providers and other stakeholders to build awareness of the authority's ethical ethos and practice.

Contra-indicators:

- absence of structured training and development and over-reliance on 'on the job' learning from colleagues
- perception that the 'public service ethos' is sufficient to maintain and develop high standards
- evidence of misunderstanding or lack of knowledge of the ethical 'rules' on the part of members and officers
- unwillingness on the part of members or staff to participate in training and development, particularly where this is based on 'long service knowledge' making training unnecessary

PLANNING AND REVIEW

Definition: recognition of the need for systematic and regular review of the implementation and operation of the ethical framework in the authority and the ability to undertake this and demonstrate continuous improvement.

Positive indicators:

- authority can demonstrate positive trends and specific progress in implementation of the ethical framework
- monitoring and review programme in place and operating

- evidence of plans for further improvement in key aspects

Contra-indicators:

- no planned monitoring and review programme - ad hoc reviews only taking place
- absence of mechanisms for measuring improvements
- absence of planned improvements or targets