

Subject: *Audit of Member's Code of Conduct*
Date of Meeting: 3rd March 2009
Report of: *Director of Finance & Resources*
Contact Officers: *Ian Withers, Head of Audit & Tel: 29-1323*
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Wards Affected: All

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 As part of the Internal Audit Plan for 2008-09, an audit was carried out on the Member's Code of Conduct – Locally Managed Framework. This followed changes effective from May 2008, requiring the council's Standards Committee to be responsible for initial assessment of all allegations involving Members breaching the Code of Conduct.
- 1.2 The Internal Audit Report was agreed and issued in November 2008. A full copy is attached at Appendix 1, the contents of which includes background, key issues arising and agreed actions.

2. RECOMMENDATIONS:

- 2.1 Members are requested to note the contents of the Internal Audit Report in particular the substantial assurance given over the governance arrangements provided by the Members Code of Conduct and the role of the Standards Committee.

3. BACKGROUND:

- 3.1 This is contained in the full Internal Audit Report at Appendix 1.
- 3.2 It should be noted that the audit report is about the arrangements to underpin the Code and compliance with those arrangements. Although the report does not deal with individual members compliance with the Code which is members personal responsibility it should be noted that up to the time of writing no complaints under the code have been upheld.

3.3 It should also be noted that all the recommendations in the Internal Audit report have been accepted and have been actioned or in the process of being actioned.

4. CONSULTATION:

4.1 There is no consultation conducted for this report.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications arising from the recommendations contained within this report.

Finance Officer Consulted: Patrick Rice *Date: 18th February 2009*

5.2 Legal Implications:

The Internal Audit Report provides confirmation that the council is complying with its obligations under the Local Government Act 2000 and the Standards Committees (England) Regulations 2008.

Laywer Consulted: Liz Woodley *Date: 18th February 2009*

5.3 Equalities Implications:

There are no direct equalities implications arising directly from this report.

5.4 Sustainability Implications:

There are no direct sustainability implications arising from this report.

5.5 Crime & Disorder Implications:

There no direct implications for the prevention of crime and disorder arising from this report.

5.6 Risk and Opportunity Management Implications:

The audit is part of the Annual Internal Audit Plan and its outcome is a key part of the Council's risk management process. The internal audit planning methodology is based on risk assessments that include the use of the council's risk registers.

5.7 Corporate / Citywide Implications:

Robust corporate governance arrangements are essential to the sound management of the City Council and the achievement of its objectives as set out in the Corporate Plan.

SUPPORTING DOCUMENTATION

Appendices:

1. Internal Audit Report Members Code of Conduct – Locally Managed Framework.

Background Documents:

1. Internal Audit Plan 2008-09.
2. Members Code of Conduct (May 2008).

INTERNAL AUDIT REPORT

MEMBER'S CODE OF CONDUCT – LOCALLY MANAGED FRAMEWORK

ISSUED TO:	Alex Bailey *	Director of Strategy and Governance
	Abraham Ghebre- Ghiorghis	Head of Law
	Mark Wall	Head of Democratic Services
	Liz Woodley	Senior Lawyer

* *FINAL ONLY*

Final

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Introduction

The Members Code of Conduct, Standards Committee and Investigations Process provide important mechanisms in contributing to high standards of governance. They are designed to reduce the risk of inappropriate actions by Members and if required to ensure that any alleged breaches of the code are effectively investigated.

From May 2008 a new standards framework requires the council's Standards Committee responsibility for the initial assessment of all allegations that a Member may have breached the Code of Conduct. It also gives the Standards Committee responsibility for subsequent investigations, decisions and sanctions. With the council having moved to a Cabinet system of decision making, and adopting a revised constitution this is a major time of change for the governance arrangements.

This audit is part of the agreed Internal Audit Plan for 2008/09. It further contributes to the assessment of the council's corporate governance arrangements.

Audit Opinion

Substantial Assurance is given on the governance arrangements provided by the Members Code of Conduct and the role of the Standards Committee in this framework.

The investigation policy/process is aligned to national best practice. Although it is premature to form a full judgement following the changes introduced in May 2008, our initial assessment is that the policy is being complied with.

Key Issues

The paragraphs below summarise the key issues arising from the audit review. Where management actions have been agreed to improve controls and reduce the level of residual risks, these are communicated in full in the detailed report (page 4)

The Members Code of Conduct is aligned to the revised Council Governance (Cabinet style) arrangements

The Code of Conduct was revised to take account of the new Cabinet arrangements introduced in May 2008. All Members have signed their "acceptance of office" which includes a statement to adhere to the Code. It was noted that the average number of declarations of gifts/hospitality made by a Member is only 2.3 per annum.

The locally based standards assessment framework is in place and operating effectively

The council has adopted a local framework for assessment of complaints. Procedures have yet to be finalised. (Rec 2.6)

Membership of the Local Standards Committee follows best practice and local policy

The membership of Standards Committee follows national guidance although on one occasion a substitute was permitted to attend a meeting. This is against best practice as prescribed by Standards Board for England (Rec 3.3)

1. Process: Members Code of Conduct is aligned to the revised Council Governance (Cabinet style) arrangements	
<p>Finding or Issue:</p> <p>1.1 The council, like all other local authorities, had to adopt a new Member's Code of Conduct in 2007, to ensure its Code remains in step with the nationally prescribed model code. The Council's new Code came into force on 30 September 2007 and was adapted for the Council's then current committee system. Revisions were then needed to allow for the change to Cabinet arrangements. This was to ensure that the Council complied with the requirements of the relevant Regulations as to the content of its Code. The Standards Committee considered these in January 2008 and recommended the Council to approve the revised Code. The Council agreed this recommendation at its meeting in April 2008 and resolved that the revised Code take effect at the Annual General meeting of the Council on 15 May 2008.</p> <p>1.2 Members are required to sign an "acceptance of office" after being elected which includes a declaration to abide by the Code of Conduct. All 54 Members had signed their declarations on 4 May 2007. This was within the prescribed mandatory 28 day timescale after the election. Co-Opted members are also required to sign their agreement with the Code of Conduct.</p> <p>1.3 Under the Code, Members are required to submit a declaration form for any offer of gift or hospitality (even if not taken) over £25. Members are reminded every month of this requirement. Of the 17 Members selected the average number of declarations made from October 2007 to September 2008 was 2.3 and ranged from 0 to 10.</p>	<p>Risk/Implications:</p> <p>Potential for non compliance with national model.</p>
<p>Recommendations:</p> <p>None</p>	

2. Process: The locally based standards assessment framework is in place and operating effectively.

Finding or Issue:

- 2.1 The Council has introduced its own framework and policy for dealing with complaints against Members that allege a breach of the Code of Conduct. This has been approved by Standards Committee which is responsible for discharging this process.
- 2.2 The Council's policy for assessing and hearing Member complaints follows a different logic to the National guidance, although is broadly aligned. The policy is under a "6th-month" review to ensure that it is a robust yet practical document. Any cases investigated under the new process will be used to inform the review.
- 2.3 The investigations and decisions made so far under the new process were reviewed and found to have properly followed the framework, although it is too early to carry out a full assessment as only one case has so far been reviewed. In the example examined meeting minutes had not been formalised due to concerns over the requirement for sub-committees to make disclosures to their parent committees. In the case of the Standards Committee, it was judged that the disclosure of such minutes may prejudice an on-going investigation if reported upwards before conclusion. The Head of Law is aware of this anomaly and is likely that the Constitution will be amended to reflect this.
- 2.4 The procedures that underpin the policy are still in draft format.

Risk/Implications:

Local framework may not be aligned to national guidance and best practice.

Recommendations:

- 2.5 *The sub-committees requirement to report upwards to its parent committee needs to be clarified.*
- 2.6 *The procedures relating to the process of investigation and determination of alleged breaches of the Member's Code of Conduct should be finalised and approved by the Standards Committee.*

Management Response

Re: 2.5. Agreed. There is a review of the constitution currently in place, which is designed to pick up and rectify anomalies, of which this is one. It will be recommended that the minutes of assessment panels are reported upwards on conclusion of the investigation process.

Re: 2.6. Agreed. The reviewed procedures are due to be presented to the next Standards Committee for approval.

By Whom: Head of Law

By When: End of January 2009

Priority:
Medium

3. Process: Membership of the Local Standards Committee follows best practice and local policy

Finding or Issue:

- 3.1 The membership of Standards Committee follows national guidance and best practice, which include having:
- an independent member as its Chair.
 - only one executive Member as a member of this committee
 - 25% of the membership are independent members
- 3.2 The national guidance does not recommend the process of allowing substitute Councillors to attend Standards Committee meetings, as this committee is not intended to operate along party political lines. Brighton and Hove has decided to allow substitutions, although this has only happened on one occasion. In this particular instance, the request was submitted in advance, discussed and agreed with the Chair and Head of Law.

Risk/Implications:

Local processes may not follow national guidance and best practice.

Recommendations:

3.3 *The use of substitutes for Standards Committee should be reviewed and follow national guidance and good practice from the Standards Board for England.*

Management Response

The use of substitutes at Committee is currently enshrined within the constitution. As mentioned before, this is currently being examined within the overall review of the constitution. The Standards Committee has already debated this issue and has made a request to the Governance Committee that it disappplies Rule 18/13 thus not permitting the use of substitutes for Standards Committee.

By Whom: Head of Law

Priority:

By When: End of January 2009	Medium
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Appendix A

Terms of Reference

Subject	Members Code of Conduct	Prepared By	K. Downes	Date	06/08/08
Audit No	A092/2009	Client Agreement	A. Ghebre-Ghiorghis A. Bailey	Date	07/08/08

1. Background

From 8 May 2008 the new more locally based standards framework gives standards committees responsibility for the initial assessment of all allegations that a member of their authority may have breached the Code of Conduct. It also gives them responsibility for any subsequent investigations, decisions and sanctions.

This audit will also follow up a previous audit that covered the Members Code of Conduct in 2007/08.

This audit is part of the agreed Internal Audit plan for 2008/09.

2. Audit Objectives

The overall objective is to provide assurance that the processes around the Members Code of Conduct are adequate.

- **That the Members Code of Conduct is aligned to the revised Council Governance (Cabinet style) arrangements.**
- **The Standards Committee (England) Regulations 2008 which establish a locally based standards assessment framework is in place and operating effectively.**
- **Membership of the Local Standards Committee complies with these Regulations.**

3. Audit Approach and Scope

The Audit will be carried out by a risk-based approach through:

- Undertaking structured interviews with key staff;
- Identifying the risks to achievement of objectives and documenting the processes in operation;
- Evaluating the controls in place and sample testing for effectiveness and adequacy, and
- Reporting findings and recommendations to management.