



City of Westminster

## General Purposes Committee

Item No:	
Date:	27 March 2006
Classification:	For General Release
Title of Report:	Westminster's Ethical Governance Audit: Response to Draft Audit Report
Report of:	Director of Legal and Administrative Services <u>and</u> <u>Director of Policy and Communications</u>
Wards involved:	All
Policy context:	Not applicable
Financial summary:	There are no financial implications arising from the report
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## 1. Summary

- 1.1 This report seeks approval to the Council's response to the draft report issued by the Auditor following the Ethical Governance Audit carried out in September/October last year. The audit involved a document review; interviews with key members, officers and an external contractor; focus groups with a range of officers and members; and a survey of members and first to third tier officers ~~and committee staff.~~
- 1.2 The draft report issued by the Auditor is attached as Appendix A. Once the Council has responded to the report and completed the action plan (at Appendix 2 to the draft report), the Auditor will issue her final report.

## 2. Recommendation

- 2.1 That the receipt of the draft report on the Ethical Governance Audit be noted.

~~2.2 That and the responses as set out in paragraphs 3.42 to 3.108 below be approved for and form incorporation into the action plan to the Draft Audit Report and.~~

~~2.2 That Officers complete the Action Plan and forwarded this to the Auditor, together with the views of the Standards Committee, as set out in Appendix B.~~

- ~~2.33~~ That the Committee consider any additional comments it wishes to make on the draft report.

~~2.44~~ That Officers be authorised to undertake the action outlined in this report and report back in ~~six~~6 months to the appropriate Committee or Cabinet Member with details of the action taken.

~~2.5 That the Council be recommended (a) to approve the addition to the Standards Committee's terms of reference set out in paragraph 3.8 (iii) and (b) to retain the current size and composition of the Standards Committee.~~

~~2.6 That officers report back on proposals for raising staff awareness (throughout the City Council and at all levels) about the role and activities of the Standards Committee, the Code of Conduct and ethical governance generally, including an indication of how this will be addressed for new members of staff and on promotion of existing staff.~~

## 3. Background

- 3.1 The Audit Commission undertook an Ethical Governance Audit of the City Council in September/October last year and the findings are set out in a draft report attached as Appendix A. The report covers areas beyond those which ~~such an audit it~~ might have been expected to cover. Nevertheless the findings are generally very positive and there is now an opportunity for the

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relevant Committees of the Council (the Standards Committee and the General Purposes Committee) to consider the report and agree what action to take.

- 3.2 The Standards Committee considered the report on 13 March 2006. ~~considered particularly~~ those aspects of the report which impact on its work. The Committee's views, which go slightly beyond their strict terms of reference because of the wide range of the Audit's findings, are reproduced in full as Appendix B. The Standards Committee's views in respect of recommendations ~~43~~ and ~~54~~ of the Audit report have been included in paras 3.74 and 3.85 of ~~this~~ report. Other views of the Standards Committee have also been included against relevant paragraphs.
- 3.3 Following receipt of the draft report it is necessary for the Council to consider its response. Once the Council has agreed its response to the draft report the Auditor will be advised and will issue the final report, taking into account the Council's response to the draft. The draft report contains seven recommendations and ~~each of~~ these are addressed in turn below:

3.4 **Recommendation 1 –**

**Review the role and functioning of Overview and Scrutiny Committees to ensure they can operate openly to challenge whether the Council is meeting the needs of its diverse communities in the most effective way.**

**Proposed response –**

- (i)        The Council is currently revising its Overview and Scrutiny Committee Structure (see separate report elsewhere on this agenda). Under the proposals a new Westminster Scrutiny Commission will “own” the scrutiny function on behalf of the Council, independent of the Executive.
- (ii) Included in the terms of reference of the Westminster Scrutiny Commission is provision for public Question and Answer sessions with the Leader of the Council. This will also cover equality issues ~~given that~~ the Leader is also the Council's Lead Member on Equalities.
- (iii) ~~Also included~~ in the report on the revised Overview and Scrutiny Committee structures is provision to review how the new arrangements operate. This will be undertaken by the Westminster Scrutiny Commission during the first year and will

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include consideration of how effectively the Overview and Scrutiny Committees are meeting the needs of the City's diverse communities ~~in the most effective way.~~

- (iv) The views of the Standards Committee on this area of the Audit are consistent with the proposed response set out above.

**Responsibility:** Director of Legal and Administrative Services.

**Agreed:** Note that action is already being taken to review the Overview and Scrutiny Committee structure.

**Comments:** See paragraphs (i) to (iv) above.

**Date:** from May 2006.

### 3.53 Recommendation 2

**Consider how the knowledge and skills of majority party members who do not hold office in the Council and minority party members can best be used for the benefit of Westminster's wide range of communities.**

#### **Proposed response –**

- (i) Every Member of the Council is a Member of the relevant Area Forum for their ward. Members not on the Executive are all likely to be appointed as Members of Overview and Scrutiny Committees and are also likely to serve on regulatory committees (e.g. Licensing, Planning, etc).
- (ii) The Council has a procedure whereby Ward Members are consulted prior to the finalisation and submission of reports which have specific implications for wards. Ward Member comments are then reflected in the report. Both Members and Officers are being reminded of this procedure to ensure that it is used consistently across the whole Council.
- (iii) All Members of the Council have been sent a copy of the draft audit report and invited to comment individually. No comments have been received to date.
- (iv) The Leader of the Council, in his annual Leader's Speech to the Council Meeting on 8 March, made reference to the importance of empowering Ward Councillors to act as champions for their area and to work which will be undertaken on a package of new responsibilities to be devolved to ward councillors on behalf of the Council and its partners in the local area agreement. This will be addressed in the report which the Chief Executive and Chief Officers will submit to the Cabinet ~~following the May Local~~

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~~Election~~ on the Strategic Review 2006 following the Local Election in May:-

- (v) The ~~Standards Committee is of the view that the~~ City Council already recognises the knowledge and skills of Members of both political groups on the Council and it is anticipated that the emerging proposals on Overview and Scrutiny Committee structures and the neighbourhoods agenda will maximise the contribution of all Members for the benefit of Westminster's wide range of communities.
- (vi) In view of the comments set out the proposed comment entry in the Action Plan is as follows:

**Responsibility:** Director of Policy and Communications.

**Agreed:** Auditor asked to note the action proposed.

**Comments:** The Leader of the Council, ~~as set out in this report,~~ has outlined a proposals ~~for to develop~~ a package of new responsibilities to be devolved to Ward Councillors on behalf of the Council and its partners in the local area agreement. Once these are in place monitoring will take place to ensure the new responsibilities are being exercised effectively.

**Date:** Ongoing.

### **3.64 Recommendation 3**

**Review the Council's approach to the management of diversity within the Council to ensure that the Council can demonstrate publicly to staff and other stakeholders its commitment to the issue.**

#### **Proposed response –**

- (i) A comprehensive framework is already in place to take forward the Council's approach to diversity. This includes an action plan (the Comprehensive Equality Action Plan or CEAP) which addresses key areas of identified weakness, ensures that the Council meets its statutory obligations and will help the Council progress through the increasingly challenging levels of the Equality Standards for Local Government. This action plan, which has been made publicly available to all staff and to stakeholders, was last reviewed in autumn 2005. A further review at this stage would, in our view, be unnecessary.
- (ii) Clear political and managerial leadership is in place. The One City vision sets out the Council's commitment to an inclusive and united city. Moreover the City Partnership (Westminster's Local Strategic

Partnership) is taking forward the diversity agenda through the work of the Westminster Partnership for Race Equality, the Local Area Agreement, and the Pledges which address the issues raised in the Westminster Ethnic Minority Needs Audit.

- (iii) At an Officer level, corporate leadership is provided through the re-focused bi-monthly Chief Officer Diversity Group, (with the Chief Executive as lead officer), which is underpinned by departmental equality structures. The group oversees the implementation of the Comprehensive Equality Action Plan, the approach to new legislative requirements (for example, the development of the Disability Equality Scheme) and the development of the workforce strategy. Monthly consultation meetings regarding diversity have also been established with the Trade Unions.
- (iv) Monitoring and review will be ongoing through the Chief Officers Diversity Group and subject to Member scrutiny, as set out in the response to Recommendation 1. In addition, the independently chaired Westminster Partnership for Racial Equality provides external challenge and acts as a critical friend to the Council in relation to meeting the needs of communities.

The proposed entry in the action plan is as follows:

**Responsibility:** Director of Policy and Communications.

**Agreed:** No, for the reasons set out above and in view of work already underway in this area, a review at this stage is not considered necessary.

**Comments:** Included in the comprehensive work programme are provisions for periodic monitoring and reviews.

**Date:** Ongoing.

### 3.75 Recommendation 4

**Consider the constitution of the Standards Committee. Consider whether the size, membership and chairing arrangements give confidence to external stakeholders that the Council will automatically, impartially and properly consider ethical issues and any potentially inappropriate behaviour by members.**

#### **Proposed response**

- (i) The Standards Committee, as presently constituted conforms with the existing legislative requirements that there must be a minimum of 3 Members one of which must be independent. The current committee has the following Membership:

- 3 elected Members (including the Chairman representative of both parties)
  - 1 independent Member
- (ii) The Government has given its response to the tenth report of the Committee on Standards in Public Life (Graham Committee) through the Office of the Deputy Prime Minister (ODPM) document Standards of Conduct in English Local Government: the future (December 2005).

The ODPM report notes:

“We accept the Graham Committee’s strong view that to retain public confidence in the independence and rigour of a more locally-based regime, Standards Committees should be required to have an independent Chairman. However, we do not accept that Committees should be required to have a majority of independent members. In our view, it is essential to ensure the inclusion in committees of independent members who reflect a balance of experience, but not that a majority of members should be independent.”

- (iii) The Government have indicated that they intend to issue regulations requiring Council’s to have Independent Members as Chairmen of Standards Committees and that Independent Members be appointed who reflect a balance of experience. No timetable has been given.
- (iv) The Standards Committee considered this issue at its meeting on 13 March and believes that the size, membership and chairmanship of the Committee remains appropriate and should remain unchanged until legislation requires otherwise.
- (v) Proposed entry in the action plan:

**Responsibility:** Director of Legal and Administrative Services.

**Agreed:** Yes. The Committee is asked to give this consideration and have regard to the views of the Standards Committee set out in (iv) above.

**Comments:** The decision of the General Purposes Committee to be included here.

**Date:** ~~The coming into force of the necessary statutory provision or sooner upon decision by the Council.~~ Completed.

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### 3.86 Recommendation 5

**Review the terms of reference of the Standards Committee. Consider whether the Committee should have a wider role so that it can obtain a more complete picture of the way Council business is being transacted and ensure that arrangements are consistently strong across the wide range of Council business.**

- (i) The Standards Committee considered carefully its role and whether it should have the wider role suggested by the Auditor. The Committee's attention was drawn to recently issued CIPFA guidance which recommends that local authorities should have an Audit Committee independent of both the executive and the Overview and Scrutiny function. It is made clear that this is guidance and not a prescriptive requirement, but it is important to note that many of the functions referred to in the draft Audit report as possible inclusions in the Committee's terms of reference are functions which CIPFA recommend should be the responsibility of the Audit Committee.
- (ii) The report on the review of the Overview and Scrutiny Committee structure elsewhere on this agenda includes a recommendation to establish a new Audit Committee separate from the Overview and Scrutiny function with terms of reference in accordance with the CIPFA guidance.
- (iii) In view of the above, the Standards Committee consider that no alternatives should be made to its terms of reference, save that the committee should be able to maintain an overview of ethical standards across the Council. The Committee have, therefore, the Standards Committee have agreed that the General Purposes Committee should consider asking the Council to amend its terms of reference by the addition of the following:

“To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority (i.e. not just in relation to Member conduct) and in this context to receive a report annually from the Director of Legal & Administrative Services, the Director of Finance, the Director of Procurement and the Director of Policy and Communications”.
- (iv) Any matters which fall more specifically within the remit of the Audit Committee, or other Committee, or Cabinet Member, could then be the subject of a recommendation from the Standards Committee. Whilst allowing an overview to be taken, in response to the Auditor's recommendations, the change will nevertheless allow for the split between Member/Officer conduct issues to be maintained. Similarly, the day-to-day responsibility for standards for employees, contractors, and diversity issues etc will remain unchanged.



- (v) It is expected that high ethical standards will be at the core of everything that the Council does. The proposed new Audit Committee will have within its Terms of Reference ensuring that high ethical standards are maintained in its areas of responsibility.
- (vi) The Standards Committee also agreed to recommend the Leader of the Council that the following be added to the Terms of Reference of each Cabinet Member.

“To have responsibility for ensuring that all activities within the remit of the Cabinet Member are carried out having regard to the highest ethical standards”.

(vii) Proposed entry in the action plan:

**Responsibility:** Director of Legal and Administrative Services.

**Agreed:** To the extent set out above.

**Comment:** The action set out above is intended to address the recommendation.

**Date:** With effect from May 2006.

### 3.97 Recommendation 6

**Review the arrangements for the way officers register their potential conflicts of interest and gifts and hospitality. Disseminate Council expectations to officers to ensure consistency.**

- (i) The “Pay and Benefits: Receipt of Gifts and Hospitality” policy already in existence is in the process of being reviewed and amended. Any amendments to the policy will be submitted to the Corporate Management Board in April for agreement. The policy will be drawn to the attention of all employees, and guidance notes for their implementation will be provided to all managers.
- (ii) The broader issue of Officers registering their interests is currently being examined. It would pose logistical challenges to maintain an up-to-date register for 5,000 staff, and the practice in other authorities is being researched prior to a final recommendation being made. It is planned to draw up a policy for initial consideration by the Corporate Management Board in April.

A report on both issues will be submitted to this Committee.

(iii) Proposed entry in the action plan:

**Responsibility:** Director of Policy and Communications.

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Agreed: Yes.

Comment: As set out in paragraphs (i) and (ii) above. See also response to recommendation 7.

Date: Aim to have revised arrangements in place for June.

### 3.108 Recommendation 7

Consider how best the Council can disseminate its approach to the ethical agenda and the high store it places on good behaviour by all when carrying out Council business. Disseminate both internally to all staff, including the Council's and contractors' temporary staff, and externally to stakeholders and the wider community.

- (i) Development of a code of conduct for employees is proposed (although there is currently guidance for officers in the code of governance it is lengthy, out of date and not easily accessible) ~~is proposed~~. This will ~~include cover~~ such issues as declarations of interests, gifts and hospitality, use of council facilities (including telephones), handling council/client assets, email, internet and intranet usage, undertaking private work, whistleblowing, disciplinary code, member/officer relationships, politically restricted posts, equal opportunities, health and safety etc.
- (ii) Once the Code is issued it is to be signed for by all employees (for new employees this could be dealt with as part of corporate induction, or perhaps local induction in the case of temporary staff). It is understood that there is software that can be utilised to disseminate such information and generate automatic reminders until it is registered as 'read and understood' ~~will be held~~.
- (iii) The following will also be undertaken:
  - Awareness raising sessions to launch new code/respond to questions, to ~~improve~~ improve visibility and accessibility of information on intranet and internet, in particular whistleblowing procedure and employee code of conduct.
  - Regular updating of code and reminders on key issues at appropriate points (e.g. gifts and hospitality in run up to Christmas).
  - Contracts to include a clause requiring partner/contractor organisations to adopt WCC's employee code of conduct or equivalent.
  - Incorporation of formal arrangements for declaring conflicts of interests within the procurement code/tendering process.

as stated by the Standards Committee, to external stakeholders that the Council has a code of conduct and takes seriously the ethics agenda and that the Westminster Reporter include an article on this matter on a regular basis so as to disseminate this information.

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(iv) Proposed entry in the action plan:

**Responsibility:** ~~Acting Director of Finance and~~ Director of Policy and Communications in consultation with the Director of Finance.

**Agreed:** Yes.

**Comments:** See above.

**Date:** From April with report to Corporate Management Board.

4. **Legal implications** – There are no direct legal implications which arise from this report.
5. **Other implications** – There are no other implications which arise from this report.

**Background Information**

If you wish to inspect one of the background documents please contact Mick Steward on 020 7641 3134; Email: [msteward@westminster.gov.uk](mailto:msteward@westminster.gov.uk).

- None

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## APPENDIX B

### DECISIONS OF THE STANDARDS COMMITTEE IN RESPONSE TO THE AUDIT COMMISSIONS DRAFT REPORT ON “SETTING HIGH ETHICAL STANDARDS”

The Committee:

1. Notes the ~~d~~Draft ~~r~~R~~e~~port of the Audit Commission entitled “Setting High Ethical Standards” but questions the necessity to emphasise on several occasions throughout the report events that occurred many years ago.
2. Welcomes the main conclusions of the ~~r~~R~~e~~port which emphasises that Westminster has a “strong focus on ethical behaviour” and that members “are well informed about the code of conduct”.
3. Believes that the high level of response from Members to the questionnaire should be acknowledged in Appendix 1 of the report. Appendix 1 should ~~make reference identify to~~ those interviewed and ~~the~~ attendees at focus groups.
4. Notes that it is regrettable that the “knowledge and skills” of a large number of Councillors are “not always used as well as they might”, but takes the view that this is simply ~~systematic-symptomatic~~ of the new system of Cabinet Government introduced in 2001, which divides members of the Cabinet from back-bencher members, giving members of the Cabinet, executive decision making powers while members not forming part of the executive, have very little responsibility for decisions. However, notes proposals will be brought forward to re-energise the role of all members through Overview and Scrutiny.
5. Recognises that in paragraph 18 of the ~~r~~R~~e~~port the Audit Commission find that there is “far greater trust amongst City Council Members and Officers than amongst members and officers nationally”.
6. Notes the comments made by the Audit Commission concerning the working of overview and scrutiny committees but regrets that the author of the ~~r~~R~~e~~port fails to recognise:
  - (a) that the City Council is aware of the need to reform the way Overview and Scrutiny committees operates.
  - (b) that the creation of Overview and Scrutiny committees resulted from the Government changing the way that Local Authorities work.
  - (c) that Westminster City Council’s Overview and Scrutiny committee have been applauded by many external audits ~~(-~~
  - ~~(d)~~ the report acknowledged that some Overview and Scrutiny committees have worked extremely well whereas others could be improved~~)~~.

(de) that the Leader of the Council has already led a discussion with members of the Council on ways to improve Overview and Scrutiny committees and that fundamental changes are proposed to be implemented after the 2006 Local Elections.

6. Recognises that junior officers at the City Council are less well informed of the work of the Standards Committee and the Ethical Framework of the City Council and therefore recommends General Purposes Committee to instruct officers to report back on proposals for training staff throughout the City Council and at all levels about the work of the Standards Committee, the Code of Conduct and ethics generally.
7. Recognises that the Council's website is not as easy to navigate as it could be and that changes have already been made to improve the website so as to make it easier to find information concerning the Council's code of conduct and ethics policies.
8. Expresses concern that the author of the Report does not appear to understand the work of the Council's One Stops and makes critical comments about their failure to take phone calls, when had she asked about the Customer Service Initiative, she would have ascertained that with the introduction of the City Council's new Call Centre, the Council's One Stop Shops concentrate on meeting customers face-to-face, leaving the Council's Call Centre to take calls, thereby introducing efficiency, financial savings and a vast improvement in customer service.
9. Regrets that the Author of the Report fails to recognise that:
  - (a) the Standards Committee have discussed on many occasions, the size and composition of the Standards Committee and have concluded (and remain of the view) that its current size and composition are appropriate for the City of Westminster.
  - (b) that a larger committee or a committee comprising of more independent members, who do not understand Local Government and Westminster in particular, would not necessarily produce any better work than the current composition nor would external stakeholders have any more confidence than they do now.and the Committee recommends the General Purposes Committee to invite the Council to retain the current size and composition of the Standards Committee.
10. Takes the view (having considered this issue on several occasions) that the Chairmanship of the Standards Committee should remain a member of the City Council until legislation requires otherwise.

11. Recommends that no alterations be made to the current terms of reference of the Standards Committee save that the Committee should assume responsibility for maintaining an overview of ethical standards in the authority, including the conduct of officers as well as members, as set out in the proposal contained in paragraph 3.1 (c)(v) of the report.
12. Recommends General Purposes Committee to instruct the Officers to report back on proposals to train officers of the City Council on the ethics agenda and the Code of Conduct and on its programme for induction of new members of staff and for staff being promoted.
13. Takes the view that the current system relating to the register of interests and the register of gifts and hospitality, is satisfactory and that the registers should not appear on the Council's website but the website should make it clear that such information is publicly available and copies can be obtained by contacting the relevant officer, with full details of how to do so provided.
14. Accepts that current practice on registers of interests and a register of gifts and hospitality for Officers should be reviewed and recommends General Purposes Committee to commission a report from Officers accordingly.
15. The Committee notes (paragraph 58-61) that the role of the Monitoring Officer needs greater dissemination within the City Council and therefore instructs the Monitoring Officer to prepare a briefing note on his role for dissemination to all members and officers and to consider advising new officers and new members of his role on a regular basis.
16. The Committee believe that external stakeholders have not expressed any criticism or concern about the operation of the ethics agenda within Westminster and therefore believes that the author of the Report is over emphasising any concern on this issue. The Auditor is asked to clarify the basis of views on this. The Committee recognises that the City Council should make it clear to external stakeholders that it has a code of conduct and takes seriously the ethics agenda and suggests that the Westminster Reporter includes an article on this matter on a regular basis so as to disseminate this information.
17. Notes the author of the Reports view (paragraph 67-68) that the Leader of the Council and Chief Executive are both held in high regard and as positive role models and the Committee endorses that view.
18. Responds to the final recommendations made by the author of the Report as follows:-

#### **Recommendation 1**

The Council is already reviewing the workings of the Overview and Scrutiny committee and will introduce a new structure after the May 2006 Elections.

## **Recommendation 2**

The City Council already recognises the knowledge and skills of members of both political groups on the Council and anticipates that the emerging proposals on the review of the Overview and Scrutiny Committee structure and the neighbourhoods agenda will maximise their contribution for the benefit of Westminster's wide range of communities.

## **Recommendation 4**

This Committee believes that the size membership and chairmanship of the Standards Committee does not require change until legislation provides otherwise.

## **Recommendation 5**

This Committee does not believe the terms of reference relating to the Standards Committee should be widened other than to incorporate responsibility for overseeing the Ethics agenda as far as it affects officers of the Council as proposed in paragraph 3.1 (c)(v) of the report.

## **Recommendation 6**

This Committee agrees that the way officers register their interests and gifts and hospitality should be reviewed.

## **Recommendation 7**

This Committee believes that the Council does disseminate its approach to the Ethics agenda appropriately but is happy to constantly review the way it does disseminate such information and invites the Director of Policy and Communication to report back to the Committee on suggestions of how to extend such dissemination.