



City of Westminster Standards Committee

Date: 15 November 2010
Classification: For General Release
Title: Review of the Code of Governance
Report of: The Head of Legal and Democratic Services
Wards Involved: All
Policy Context: High Ethical Standards
Financial Summary: There are no financial implications arising
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1. Executive Summary

- 1.1 This report sets out details of the review of the City Council's Code of Governance undertaken by the Council, Cabinet and Committee Secretariat and explains the changes implemented by Officers and the issues on which Officers seek the views of the Committee.
- 1.2 The revised version of the Code of Governance is attached as Appendix 2. This will be presented to the General Purposes Committee at their meeting on 22 February 2011, subject to any amendments suggested by the Committee.

2. Recommendations

- 2.1 That the Committee note and comment upon the content of the report for reporting to the General Purposes Committee;
- 2.2 That the Committee offer their views on the issues addressed in sections 7 (Guidance on Ward Newsletters), 8 (Planning and Licensing Protocols) and 9 (Ward Issues);
- 2.3 That the General Purposes Committee be asked to recommend the Council adopt the changes set out in this report.

3. Background

- 3.1 On 15th December 2009 the Standards (Hearing) Sub-Committee of Westminster City Council's Standards Committee conducted a hearing into an investigation of a complaint. As part of its findings, the Sub-Committee requested that a review be undertaken of the relevant parts of the City Council's Code of Governance to consider what further guidance could be given on the publication of ward newsletters and whether any updating was necessary.
- 3.2 As reported to the Standards Committee on 13th July 2010, Officers recommended that the requested review be undertaken as part of a wider review of the Code of Governance, in consultation with the Party Whips. Once completed, the outcome of the review would be presented to the Standards Committee at this meeting.
- 3.3 The City Council's Code of Governance was first issued in 1998 and is kept under review and updated in accordance with the principles and requirements of the CIPFA/SOLACE revised framework which itself builds on governance work both in the public and private sectors and in particular "The Good Governance Standard and Public Services" drawn up by the Independent Commission on Good Governance in Public Services.
- 3.4 The Code was last reviewed in 2008 and is updated as necessary to reflect organisational changes. However, the Code has not received comprehensive scrutiny for some time. The request of the Standards (Hearing) Sub-Committee provided a timely opportunity to review the Code more fully so as to provide greater clarity to Members and Officers of what is expected of them when representing the City Council.

4. Code of Governance – Comparison

- 4.1 Prior to reviewing the City Council's Code of Governance, Officers studied a broad selection of other local authorities' versions of the Code to use as comparators. The specific areas of concentration were:
- the content of the Code and how it was divided;
 - the subject matters other local authorities considered relevant for inclusion; and
 - where the Code was located. For example, as part of the Constitution, as a separate document within the Governance pages of their website or as a standalone document at another location.
- 4.2 The previous version of the City Council's Code of Governance was divided into three separate sections:
- General Information
 - Guidance for Members

- Guidance for Officers

Each section of the Code contained a large proportion of information rather than guidance (or protocol). This information, whilst justifiable in some cases as context, made the aforementioned documents lengthy and convoluted. Many local authorities favoured a simpler, more focused approach whereby their Code was divided into a number of documents which concentrated upon a specific area of protocol. This approach made the relevant guidance easier to find and more accessible to the reader.

- 4.3 As is required, every local authority included the overarching Framework (which sets out the principles by which the Council governs) and a further Member and Officer Code of Conduct (although their exact titles differ). Supplementary documents varied widely but included protocols on Member/Officer relations, communications and the press, planning, licensing and use of facilities/resources.
- 4.4 With regard to the location of the Code, the common practice amongst many local authorities was to include their Code of Governance documents in Part 5 of their Constitution – under ‘Codes and Protocols’. Part 5 of Westminster’s Constitution also includes our fundamental codes, such as the Members’ Code of Conduct, Employees Code of Conduct and Protocol on Member and Officer Relations. However, these documents were not only duplicated within an appendix to our Constitution in the form of our Code of Governance, but that same information was published a third time on the Governance pages of our website.

5. Reviewing the Code of Governance

- 5.1 After evaluating the City Council’s Code and the Code of other local authorities, the following fundamental aims for the review were identified:
- (1) to restrict the information contained within the Code to relevant guidance for Members and Officers;
 - (2) to remove as much general information as possible, whilst ensuring that any information removed is accessible elsewhere on the website or readily available in hard copy;
 - (3) to create a collection of separate documents to constitute the Code rather than fewer lengthy publications;
 - (4) to publish the Code in one location thereby avoiding duplication; and
 - (5) to produce a Code that allows Members and Officers to find the guidance they require as quickly and easily as possible.

6. The New Code of Governance

How has the Code been divided?

- 6.1 Appendix 1 provides the list of contents for the previous version of the Code. As mentioned above in 4.2, the Code was divided into three lengthy

documents (totalling over 100 pages). In order to find the necessary guidance or protocol, the reader had to sift through a vast amount of descriptive text and extract the prescriptive information required from a Code of Governance. Appendix 2 is a list of the separate documents which now constitute the Code. Each document focuses upon the subject indicated by the title and either provides prescriptive guidance or clearly outlines the relevant protocol/procedure. Whilst the amount of general information has been reduced, appropriate information has been preserved to give context to particular topics.

- 6.2 These separate documents will be located within Part 5 of the Council's Constitution, along with the current Codes of Conduct. The Code of Governance will not be duplicated elsewhere but a link to the Constitution, clearly stating where the Code exists, will be provided on the Governance pages of the Council's website.

What has been deleted?

- 6.3 The following is a broad indication of what has been deleted from the previous Code and where else it is located:
- A general explanation of the Constitution, forward plan, area forums, the Council, Cabinet and types of Committees (*Constitution*);
 - The Officer Structure (*Constitution*);
 - The Framework for Decision Making (*Constitution*);
 - Officer Support for Members (*Members' Handbook, Council website*);
 - Appointments to Outside Bodies (*Council website*);
 - 'When Things Go Wrong' Complaints Procedures (*Council website*);
 - Customer Care Standards (*Council website*);
 - The Council, Cabinet and Committee Process (*Constitution*)
 - Standards Board for England (*N/A*)
 - Members Allowances (*Council Website. Members are also given more specific, detailed information in writing by the Council, Cabinet and Committee Secretariat*)

What has been added?

- 6.4 The current Ward Budget Protocol for Members has been included as a separate document. This protocol, held by Members Services, had not previously been included as part of the Code of Governance. This provides Members with guidance on identifying, developing and implementing options for expenditure from their Ward Budget.
- 6.5 The Members' Code of Conduct now includes a Declaration of Interests Flow Chart. This chart aims to aid Members when deciding whether a personal interest requires a declaration at a meeting and whether that interest is personal or prejudicial.

7. Guidance on Ward Newsletters

7.1 As requested by the Standards (Hearing) Sub-Committee (referred to in 3.1) specific guidance has provisionally been produced for the production of ward newsletters. This has been informed by the Ward Budget Guidance approved by the then Cabinet Member for Customer and Community Services in 2008 and endorsed by the Head of Legal Services, which states that Ward Budgets cannot “seek to fund lobbying, political activity or general ward publicity”. This guidance, which underpins the current Ward Budget Protocol available for Members, is included within the Protocol on the use of Resources and Facilities by Members. For ease of reference the text is as follows:

*“Council stationery and photocopying, despatch and postal facilities, wherever provided, are available to provide support to Members of the Council. These services are provided to assist Members in the performance of their official Council duties and with constituent’s casework only. They must not be used by Members in connection with party political matters or general ward publicity, including the publication of ward newsletters.
Please note: The production of papers and letters for circulation to Members of the public etc on a large scale will not normally be acceptable nor will services be provided on matters which are, in the opinion of the Chief Executive, of a political nature.”*

7.2 Guidance issued by IDeA suggests that the issuing of newsletters by ward Councillors is good practice, but makes no reference to how these should be funded. With this guidance in mind, Officers seek the advice of the Committee with regard to:

- (1) whether ward newsletters should be permitted; and
- (2) subject to (1) above, how ward newsletters should be funded.

7.3 If the Committee is of the view that ward newsletters should be permitted, it will be appropriate for a ward newsletter protocol to be authored to address additional considerations for their production and distribution. This guidance will include the necessity for all three respective ward members and a Legal Services Officer to approve the content of all newsletters prior to circulation.

7.4 If the Committee is of the view that ward newsletters should be funded by Ward Budgets, this will require the formal approval of the Cabinet Member for Community Services. As referred to above, the current protocol on Ward Budgets prohibits their use for this purpose.

8. Planning and Licensing Protocols

8.1 Many of the local authorities used as comparators in preparation for the review included Planning and Licensing Protocols within Part 5 of their Constitution (Codes and Protocols) or equivalent Code of Governance documentation. In this respect, Westminster is atypical, particularly when taking into consideration the prominence of the City Council’s Planning and Licensing Committee’s and the scale and importance of many applications considered by the Committees.

8.2 It is recognised that the Chairmen and Members of the City Council's Planning and Licensing Committees, as well as Officers, adhere to unwritten protocols in addition to the Committee meeting procedure rules.

8.3 The formalisation of Planning and Licensing Protocols within the Council's Code of Governance is not intended to restrict Members or Officers, but codify the best practice approach that currently exists.

The following benefits to a formally recognised protocol have been identified:

- (1) chairmen and Committee Members would be able to use the protocol as guidance for conduct in and outside meetings and attending site visits, in addition to the training provided prior to taking up a position on these Committees;
- (2) all Members and Officers will have a common expectation and understanding of the City Council's Planning/Licensing practices; and
- (3) members of the public will have access to information on the City Council's Planning/Licensing protocol.

8.4 The current review is an ideal opportunity for the Council to rectify the omission of a formal Planning and Licensing Protocol for Officers and Members within its Code of Governance. It is therefore proposed that the Cabinet Member for the Built Environment be given responsibility for approving a Planning Protocol and the Cabinet Member for Business, Enterprise and Skills a Licensing Protocol.

9. Ward Issues

9.1 From time to time Members will be asked to take-up matters on behalf of residents in wards other than their own. This issue has come to the attention of the Chief Executive, who has asked the Head of Legal and Democratic Services to consider how this can be addressed with a formal protocol contained within the Council's Code of Governance.

9.2 The following guidance has been drafted:

"If a Member is asked to take-up a matter on behalf of residents in wards other than their own the Member in question should take the following steps:

- (1) Inform the resident that they are not their Ward Member.
- (2) Inform the resident of who their Ward Members are and suggest they contact the Members who are responsible for their ward to address their issue.
- (3) If, after steps (1) and (2) have been followed, the resident still wishes the Member in question to take-up their issue, the Member may do so.

- (4) If the Member in question chooses to take-up an issue of a resident in a ward other than their own, the Member should inform the relevant Ward Members prior to taking any further action.”

9.3 The Committee is asked to provide its views on the above guidance for inclusion in the Code of Governance.

10. Legal Implications

10.1 The City Council’s revised Members Code of Conduct sets out the conduct which is expected of members and co-opted members of an authority came and into effect from 5 September 2007. It supersedes the original Code adopted by the City Council in 2002 and thus complies with Section 51(2) of the Local Government Act 2000.

10.2 The Council may include other provisions which are consistent with those of the revised model code issued in 2007.

11. Financial Implications

11.1 There are no financial implications arising from this report.

12. Conclusion

12.1 The revised Code of Governance has responded to the aforementioned request of the Standards (Hearing) Sub-Committee and provided both Members and Officers with clear and accessible guidance on what is expected of them when representing the Council.

If you wish to inspect one of the background papers please contact Naomi Stauber, email nstauber@westminster.gov.uk

Background Papers

- Consideration of Investigation into a complaint against Councillors Barbara Grahame and Aziz Toki - Report to the Standards Sub-Committee (2) dated 15th December 2009 (**confidential**)
- Standards Committee report on the Review of the Code of Governance following the decision of the Standards (Hearings) Sub-Committee, 13th July 2010.
- Cabinet Member Report on the One City Neighbourhoods Programme – Ward Budget Guidance, submitted to the Cabinet Member for Customer and Community Services on 16th January 2008.