

Standards Committee

Annual Report

2009/2010

**For submission to the Authority
on 28th June, 2010**

Foreword by the Chair of the Standards Committee

It is my pleasure to present the Annual Report of the Standards Committee.

This is the second year of implementation of the local standards regime, and we have had yet another successful year where we have consolidated the good practice developed in the first year of operation.

I wish to express my appreciation to the elected members of the Standards Committee who have a wealth of experience to assist independent members in their role. My thanks also go to my independent member colleagues who have given their time without complaint. Between us we have an excellent balance of political understanding and independence which I believe makes our Standards Committee a most effective and impartial body which promotes and upholds high standards in West Midlands Fire Authority.

I would also like to thank the Monitoring Officer and her supporting officers for their efforts, and for their constant support to myself as Chair during 2009/10.

Chair of the Standards Committee

MEMBERS OF THE STANDARDS COMMITTEE 2009/10

Independent Chair

Mr Colin Topliss

Independent Vice-Chair

Mr Roger Bagley

Elected Members

Councillor Neil Eustace
Councillor Mohammed Idrees
Councillor Carol Jones
Councillor Julian Ryder
Councillor Tarsiem Singh
Councillor Margaret Sutton

Independent Member

Mr David Denny

EXECUTIVE SUMMARY

The Standards Committee is satisfied that the Authority's arrangements for the ethical framework are compliant with statutory requirements and guidance from the Standards Board for England. The Committee also receives regular benchmarking information against which to measure its performance, as well as engaging in regular learning, member development and review of its activities and processes.

No complaints have been received about member misconduct in 2009/10, which is a testament to the excellent ethical framework in place at West Midlands Fire and Rescue Authority.

The Committee has made the following improvements to the ethical framework in 2009/10:

- √ Protocol for Member/Employee Relations;
- √ Enhanced promotion of the ethical framework via leaflets, publications and improvement of the relevant parts of the Authority's web site;
- √ Explanatory leaflets for the public about the ethical framework;
- √ Policies for handling anonymous and confidential complaints;
- √ Criteria by which requests for confidentiality will be considered;
- √ Enhanced officers' Code of Conduct;
- √ Introduction of a forward work programme for the Committee.

The Committee has also carried out its traditional duties as set out in its terms of reference as follows:

- ❖ Approved a protocol for member/employee relations;
- ❖ Regular inspection and monitoring of the Register of Gifts and Hospitality and the Register of Declarations of Interest in respect of members and officers;

The Committee is aware that there is always more to do in fulfilling its role and has identified the following matters that will need its attention in 2010/11:

- Ethical Governance Toolkit Survey
- Communication and dissemination of information about the ethical framework;
- A health check of the ethical governance of partnerships;
- Monitoring and delivery of further member training.

Annual Report of the Standards Committee 2009/2010

1. The Standards Committee, its constitution and membership

- 1.1 The Local Government Act 2000 requires every local authority to establish a Standards Committee. Further details of those requirements are set out in Appendix 1.
- 1.2 The main function of the Standards Committee is to promote and maintain high standards of conduct for members, and to help members follow the Code of Conduct. The Committee also operates the local assessment regime which deals with allegations of misconduct by members. The Committee also undertakes non-statutory functions allocated to it by the Authority such as the overview of officer codes of conduct and the confidential reporting code [whistle-blowing policy].
- 1.3 The detailed terms of reference of the Committee are set out as Appendix 2 to this report. The Committee met on three occasions during the 2009/2010 municipal year:-

7th September 2009

14th December 2009

17th May 2010

- 1.4 The Standards Committee is satisfied that the Authority's arrangements for the ethical framework are compliant with the statutory requirements and with guidance issued by the Standards Board for England. However, the Committee is aware that there is always room for improvement and to that end receives regular benchmarking information against which to measure its performance and processes.
- 1.5 The Standards Committee in 2009/10 had nine members, as follows:-

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|------------|--------------------|--------------------|
| Chair | Mr C Topliss | Independent Member |
| Vice-Chair | Mr R Bagley | Independent Member |
| | Councillor Eustace | Liberal Democrat |
| | Councillor Idrees | Labour |
| | Councillor Jones | Liberal Democrat |

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|--|-------------------|--------------------|
| | Councillor Ryder | Conservative |
| | Councillor Singh | Labour |
| | Councillor Sutton | Conservative |
| | Mr D Denny | Independent Member |

1.6 The independent members on the Standards Committee are a valued asset. Their presence gives balance and challenge and they carry out their role with confidence and impartiality.

2. Role of the Monitoring Officer in the Ethical Framework

Sandwell Metropolitan Borough Council's Head of Legal Services, Neeraj Sharma, is designated as the Monitoring Officer for the Authority. She supports the Clerk to the Authority, who is Sandwell's Head of Governance Services. The Monitoring Officer is responsible for ensuring that the Authority and its members act lawfully, do not cause maladministration and comply with the Code of Conduct for Members. She is the primary source of advice for members on the requirements of the Code of Conduct. The Monitoring Officer is the principal adviser to the Standards Committees and its sub-committees.

3. Members' Code of Conduct

3.1 The Authority in September 2007 adopted a revised Code of Conduct based on the national model. The Code of Conduct was given appropriate publicity at the time of its adoption. The Code is also publicised on the Authority's website.

3.2 All members are issued with a copy of the Code of Conduct upon their appointment to the Authority and are required to sign an undertaking to comply with the Code. Members also receive induction training and subsequent refresher training, delivered by the Monitoring Officer, through the Policy Planning Forum on the provisions of the Code and how to carry out their duties in line with the Code. Standards Committee members receive training as and when necessary and are invited to take part in training events delivered by Sandwell Council for its Standards Committee members. It is acknowledged that members also receive training in their constituent authorities.

- 3.3 Part 3 of the Members' Code of Conduct requires elected and co-opted members to give written notification to the Monitoring Officer of any personal and prejudicial interests to be included in the Authority's statutory Register of Interests within 28 days of election or appointment, and to update their declarations as appropriate by notifying any amendments or new interests within 28 days of becoming aware of them. The Register of Interests and Declarations of Interest are monitored by the Monitoring Officer and are made available for inspection by the Standards Committee on a regular basis and the public at all times.
- 3.4 Members are also obliged to disclose any personal or prejudicial interests at meetings where those matters are to be discussed. These declarations are recorded in a register open for public inspection and are also noted on the Committee Management Information System. The Register of Gifts and Hospitality is monitored by the Monitoring Officer and is made available for inspection by the Standards Committee on a regular basis.
- 3.5 The Authority also has a protocol for members on gifts and hospitality giving additional guidance on the requirement of the Members' Code of Conduct for members to declare gifts and hospitality received with an estimated value of at least £25. These declarations are recorded in a Register which is open for public inspection. It is also proposed to upload individual declaration forms onto the Authority's Committee Management Information System (CMIS) to further enable the public access.

4. The Local Assessment Framework

- 4.1 From 8th May 2008 the responsibility for assessing complaints about allegations of member misconduct transferred from the Standards Board for England to local authorities. The local assessment framework is now well established in the Authority and an outline of the process is set out as Appendix 3.
- 4.2 The Committee has considered and approved the following documents during the course of 2009/10:

- An explanatory leaflet on the member complaints process for members of the public and potential complainants. The leaflet is widely available in any fire service buildings to which the public has access and is also available from the Authority's website. Information about the process has also been publicised via the Authority's staff magazine Firepower.
 - A policy on the handling of anonymous complaints and a criteria for dealing with requests for confidentiality, as required by Standards Board for England guidance.
- 4.3 The Committee engages in regular learning about dealing with complaints. One example of this is a regular report outlining case summaries published by the Standards Board for England and the First Tier Tribunal, selected by the Monitoring Officer for their relevance. These case summaries are also a useful barometer as to the types of cases being referred up to national level and the decisions and sanctions they generate.

5. Allegations of Misconduct by Members

- 5.1 Under the local assessment framework all complaints of misconduct now come direct to the Monitoring Officer and are referred to the Assessment Sub-Committee. The Authority has not received any allegations to date.

6. Benchmarking

- 6.1 The Standards Committee is aware that there is always room for improvement and to that end receives regular benchmarking information against which to measure its performance and processes: for instance, the Committee carried out a self-assessment exercise in 2009/10 against good practice outlined in the Standards Board for England Annual Returns Questionnaire and the Independent Chair attended the 2009 Annual Assembly of Standards Committees.

6.2 Measuring the Authority's performance against these benchmarking tools reveals that the ethical framework already comprises much of what is lauded nationally as good practice. The Standards Committee is performing well, with a strong ethical standards regime, a good cohort of independent members and good political representation.

6.3 Some areas for improvement have, however, been identified by the Standards Committee and will be implemented in 2010/2011 as follows:

- The Standards Committee/Independent Chair will meet twice yearly with the Chairman of the Authority and the Chief Fire Officer to discuss ethical issues.
- The Committee/Independent Chair will meet twice yearly with political group leaders to discuss ethical issues.
- Partnership governance has been identified as a priority in the Committee's work programme.
- The Committee has identified the need to look more closely at member training, which will be looked at alongside the Authority's work towards achieving Primary Level of the Member Development Charter.
- Members' Statutory Declaration of Interest forms will be made publicly available on the Authority's website, as will the Register of Gifts and Hospitality.

7. Regular review of ethical framework

A further important part of the work of the Standards Committee is the regular updating of the ethical framework. The Committee has reviewed the following documents and processes in 2009/10:-

7.1 Member/employee relations protocol

Following a detailed self-assessment carried out by officers to meet the requirement of the CIPFA/SOLACE guidance, it was identified that there was no formal protocol in place which covered member/employee relations. The Committee therefore approved a

protocol at its meeting on 7th September 2009, which was subsequently adopted by the Authority at its meeting on 21st September 2009.

7.2 Review of the Register of Gifts and Hospitality

The Committee has reviewed the operation of the policy with regard to the declaration of gifts and hospitality by members and examined details of declarations from the register. As of 14th December 2009 there had been three declarations of gifts and hospitality in the preceding municipal year, all three of which related to a member who is no longer appointed to the Authority.

7.3 Ethical Governance Toolkit – Light Touch Health Check

The Committee has considered a report on the Ethical Governance Toolkit (launched by the Audit Commission, the Improvement and Development Agency and the Standards Board for England) and the various tools available to improve the ethical framework of the Authority. Further consideration will be given to this matter and the options the Committee wishes to pursue, in the 2010/2011 municipal year.

8. Member Training

8.1 The Standards Committee is responsible for overseeing training in connection with matters within its terms of reference.

8.2 The Authority in September 2009 agreed to work towards the Primary Status of the Member Development Charter and has established a cross-party Member Development Working Group to oversee the work towards the Charter. This work will help with monitoring and evaluating the current training programme including training on the ethical framework. The Standards Committee will be consulted with regard to this review and any necessary tasks will be incorporated into its work programme for 2010/2011.

8.3 The Standards Committee continues to develop its own skills and expertise, for instance, by looking at case summaries [para 5.4 above], by appropriate refresher training, and will in 2010/11 be improving induction training and training and skills analysis for independent members [para 3.5 and 7.3 above].

9. The forward work programme for the Standards Committee

10.1 It is anticipated that the following items will be included in the work programme for 2010/2011:-

- Establish a database for Employees' Register of Interests. and Register of Gifts and Hospitality
- Publication of individual members' declarations of interest on the Authority's web site (Committee Management Information System).
- Publication of both members' and officers' Register of Gifts and Hospitality on the Authority's website.
- Communication and dissemination of information about the ethical framework;
- Ethical Governance Toolkit exercise.
- A health check of the ethical governance of partnerships;
- Monitoring and delivery of further member training and supporting the Authority in its work towards achieving Primary Level of the Member Development Charter.

Standards Committee – Legal Requirements

1. Every relevant local authority is required under Section 53 of the Local Government Act 2000 to establish a Standards Committee , for the purpose of carrying out the functions conferred on it under the Act. The general functions are:-
 - (a) to promote and maintain high standards of conduct by the members and co-opted members of the authority, and
 - (b) to assist members and co-opted members of the authority to observe the authority's code of conduct.

More specifically, the committee must:-

- (a) advise the authority on the adoption or revision of a code of conduct;
- (b) monitor the operation of the authority's code of conduct;
- (c) advise, train or arrange to train members and co-opted members on matters relating to the code of conduct;
- (d) assess and review complaints about members;
- (e) conduct determination hearings
- (f) grant dispensations to members with prejudicial interests;
- (g) grant exemptions for politically restricted posts.

An authority may also arrange for their Standards Committee to exercise other functions as the authority considers appropriate.

The committee must include at least two members of the authority and at least one person who is not a member, or an officer, of that authority or of any other relevant authority (an independent member). Independent members must comprise at least 25% of the membership. The Chair of the Committee must be an independent member.

2. The Standards Committee (England) Regulations 2008 further define, amongst other things, the size and composition of Standards Committees and Sub-Committees, the appointment of Independent Members, the conduct of meetings and hearings, publicity and the availability of information connected with meetings.
3. Standards Committees are not subject to the political balance requirements of Sections 15 –17 of the Local Government and Housing Act 1989. This is to allow the Committee to be seen as above party politics and comprised of representatives that command the support of the whole authority, regardless of party political loyalties.

Appendix 2

Terms of Reference of the Standards Committee

To promote and maintain high standards of conduct by Members of the Authority.

To assist Members of the Authority to observe the Authority's Code of Conduct, specifically:-

- To advise the Authority on the adoption or revision of a Code of Conduct.
- To monitor the operation of the Authority's Code of Conduct.
- To advise, train or arrange for training for Members of the Authority on matters relating to the Authority's Code of Conduct.

To determine, monitor and review the arrangements for the local ethical standards regime and carrying out any functions reserved to the Standards Committee under those arrangements.

To appoint Sub-Committees with delegated power:

- a. To discharge any function specified in Section 57A of the Local Government Act 2000 (initial assessment of allegations of Member misconduct);
- b. To discharge any function specified in Section 57B of the Local Government Act 2000 (review of decision of Assessment Sub-Committee)
- c. To conduct local hearings under Regulation 10 of the Standards Committee (England) Regulations 2008.

To grant dispensations to Members from requirements relating to interests set out in the Code of Conduct for Members.

To consider applications for exemption from the 'politically restricted post list' by the post holder, and make decisions as to whether the post should be included on the list.

To consider concerns from any member of the public who believes that a post has been wrongly omitted from the 'politically restricted post list'.

To exercise any functions which the Authority may consider appropriate from time to time.

To submit an Annual Report to the Authority.

To submit its minutes to the Authority.

How the local assessment process works

The process comprises the following stages:

Initial Assessment

Complaints about alleged breaches of the Member Code of Conduct are received by the Monitoring Officer, who refers them for consideration by the **Assessment Sub-Committee** of the Standards Committee.

The Sub-Committee has 4 options:

- To refer the complaint to the Monitoring Officer for investigation
- To refer the complaint to the Monitoring Officer for other action
- To refer the complaint to the SBE [in the case of very serious complaints]
- To take no action in respect of the complaint.

Assessment decisions are made within 20 working days of the receipt of the complaint.

Review

In the case of a decision to take no action on the complaint, the complainant can ask for the decision to be reviewed by the **Review Sub-Committee** of the Standards Committee. That Sub-Committee has the same options as the Assessment Sub-Committee in dealing with the complaint.

Reviews are carried out within 20 working days of the receipt of the request for a review.

Decision notices in respect of initial assessments and reviews are sent out to the complainant and subject member with 5 working days. A written summary of the proceedings is made available on CMIS and is open to public inspection for six years.

Assessment and Review Sub-Committees are closed meetings, that is, they are not subject to the provisions of the Local Government Act, 1972 relating to access to information for press or members of the public. They are therefore not meetings which the press or public are entitled to attend.

Consideration and Hearing

If the Assessment or Review Sub-Committees refer a complaint to the Monitoring Officer for investigation, on completion of the investigation the Monitoring Officer will make one of two findings:

- There has been a failure to comply with the Code
- There has not been a failure to comply with the Code.

The Monitoring Officer's report must be considered by the **Consideration and Hearing Sub-Committee** of the Standards Committee which must decide whether to accept the recommendation of the Monitoring Officer.

If it is found that there has been a breach of the Code of Conduct, there will be a full hearing by the Consideration and Hearing Sub-Committee. The range of sanctions available to the Sub-Committee has been extended by new legislation.

At each stage of the process the Sub-Committees are supported by a legal adviser, a presenting officer and a clerk. An independent legal adviser is used where this is considered to be appropriate.

In accordance with the regulations and guidance, fresh members hear the assessment and review stages of the process. The increase in the size of the Standards Committee should allow fresh members also to hear cases at consideration and hearing stage.