
REPORT OF STANDARDS COMMITTEE

MEETING HELD ON 5 DECEMBER 2006

Chairman: The Right Revd Peter Broadbent

Councillors: * Mrs Janet Cowan * Jean Lammiman
* B E Gate * Joyce Nickolay (Vice-Chairman in the Chair)
* Mrs Kinnear * Phillip O'Dell

Independent Persons: * Ms Sheila Darr * Mr Mohammad Rizvi
† Dr J Kirkland

* Denotes Member present
† Denotes apologies received

PART I - RECOMMENDATIONS**RECOMMENDATION I - Protocols - Monitoring Officer and Chief Financial Officer**

Members received the draft of the proposed Protocols for the Monitoring Officer and Chief Financial Officer. Members noted that adoption of the Protocols would demonstrate that arrangements were in place to ensure that these two statutory officers would carry out their responsibilities with the support of Members and officers. It was noted that the roles had not been changed in any way, but were now clearly defined with particular reference to the provisions of the Code of Conduct.

Resolved to RECOMMEND: (to Council)

That the Protocols for the Monitoring Officer and Chief Financial Officer, as set out at Appendix 1 to these minutes, be adopted.

PART II - MINUTES28. **Attendance by Reserve Members:**

RESOLVED: To note that there were no Reserve Members in attendance at this meeting.

29. **Declarations of Interest:**

RESOLVED: To note that the following interests were declared by Members in relation to the business to be transacted at the meeting:

<u>Agenda Item</u>	<u>Member</u>	<u>Nature of Interest</u>
9. Review of Whistleblowing Policy) Councillor Jean Lammiman	During the course of the meeting the Member declared a personal interest, in relation to items 9 and 13 in that she was Chairman of the Member Development Panel.
13. Recommendation from the Member Development Panel – Annual Development Programme		
) Councillor B E Gate	During the course of the meeting the Member declared a personal interest in relation to items 9 and 13, in that he was Vice-Chairman of the Member Development Panel.

30. **Arrangement of Agenda:**

RESOLVED: That all items be considered with the press and public present.

31. **Minutes:**

Members indicated that they had some difficulty in approving the minutes of the previous meeting as they had not been circulated. The Chairman advised that the minutes could be accessed via the intranet but that she would raise this issue with the Leader of the Council.

RESOLVED: That the minutes of the meeting held on 19 September 2006 be deferred until the next meeting.

32. **Public Questions, Petitions and Deputations:**

RESOLVED: To note that no public questions were put, or petitions or deputations received at this meeting under the provisions of Committee Procedure Rules 19, 16 and 17 (Part 4B of the Constitution) respectively.

33. **Members' Register of Interests:**

Members considered a report of the Director of Corporate Governance, which detailed findings of a survey carried out of the practices of other boroughs in relation to the publication of the Members' Register of Interest forms.

Members were reminded that at the last meeting officers had put forward the option of placing the Members' Register of Interests electronically onto the intranet or internet in order to enhance public accessibility. Prior to any decision being made, Members had requested officers to investigate the practice in other boroughs and to report back the results of the survey. It was noted that Harrow still had a few teething problems with the software and it was hoped that the monthly email reminder function would be working and in use within the next few months. It was agreed that Members' addresses and signatures would not be published and that they would be consulted prior to any implementation of the software facility, concerning publishing details on the internet.

Concerns were raised in relation to the publication of Councillors' personal details on the website and Members queried the necessity for doing this. Whilst the Committee appreciated the need for transparency, it was acknowledged that the Register of Interest forms were already publicly available in a hard copy format for inspection at any time. Officers were requested to further investigate why some boroughs had decided to publish the Register.

The Committee expressed the view that all Members of Council should be sent a copy of the report for consideration and discussion at Group Meetings.

RESOLVED: That (1) officers, subject to teething problems above, use the upgraded modern.gov software to implement a system of automatic monthly e-mail reminders to Members to keep their entries in the Register of Interests up to date;

(2) officers write to all Members of Council advising of the proposal to publish Members' Register of Interests onto the website, and seek their views;

(3) officers ascertain why some boroughs have chosen to publish the Members' Register of Interests on the website, whilst others had opted out;

(4) subject to (2) above, Members view their Register of Interest form via the intranet, but update them through the normal officer procedures.

34. **Review of Whistleblowing Policy:**

The Committee received a report of the Head of Human Resources, which detailed the progress made in revising the Whistleblowing Policy.

Members were informed that the draft policy now included improved guidance on the whistleblowing procedure and how workers could raise a concern. A flowchart with a list of regulatory bodies who could assist had been appended to the draft to assist an employee, if they were unsatisfied with the outcome or felt that the matter was outside the Authority's jurisdiction. The draft policy was currently subject to consultation, which had a deadline of 12 December 2006 for comments. The result of the consultation would be reported to a future meeting and, once approved, the policy would be placed on the intranet.

RESOLVED: That (1) a Reference on the Whistleblowing Policy be made to the Member Development Panel, for consideration to incorporate the Policy into the Members training;

(2) the progress on the review of the Whistleblowing Policy be noted.

(See also Minute 29).

35. **Protocols – Monitoring Officer and Chief Financial Officer:**

(See Recommendation I).

36. **Review of the Code of Conduct:**

The Committee received a report of the Director of Corporate Governance, which updated Members on the timescale for the introduction of the Code of Conduct.

Members noted that the revised deadline for receipt of the Code was now January 2007, and that the Livingstone High Court case may have attributed to the Standards Board of England's (SBE) delay in revising the Code. The officer explained that the intention was to circulate the Code to all Members of Council for consultation, once it had been received from the SBE.

It was suggested that a Special meeting of the Standards Committee be arranged, to review and finalise the revised Code, following the feedback from Members' consultation.

RESOLVED: That (1) the revised timescale be noted;

(2) a Special meeting of the Committee be arranged to discuss the Code of Conduct.

37. **Confidential Information:**

Members received a report of the Director of Corporate Governance which set out the current practice of the Standards Board for England regarding its practice in relation to confidential information.

RESOLVED: That the report be noted.

38. **Member Development:**

Further to Recommendation 1 of the meeting of the Member Development Panel on 13 September 2006, Members received a report of the Director of People, Performance and Policy which set out the Member Development Strategy 2006-2010 and the learning and development programme for elected Members.

A Member drew attention to the schedule of meetings and events for 2006-2010, which had been circulated to all Members of Council.

RESOLVED: That the Member Development Programme for 2006-2010 be approved.

(See also Minute 29).

(Note: The meeting, having commenced at 7.30 pm, closed at 8.58 pm).

(Signed) COUNCILLOR JOYCE NICKOLAY
Vice-Chairman in the Chair

APPENDIX 1

LONDON BOROUGH OF HARROW

PROTOCOL FOR MONITORING OFFICER RESPONSIBILITIES

1. Introduction

- 1.1 This protocol describes the principal functions of the Monitoring Officer and the way in which the Council expects him or her to discharge those functions.
- 1.2 The Monitoring Officer is a statutory appointment required by section 5 of the Local Government and Housing Act 1989 ('the Act').
- 1.3 A summary list of the statutory responsibilities of the Monitoring Officer appears in the table annexed to this document.
- 1.4 The current responsibilities of the Monitoring Officer rest with the Director of Legal Services, Hugh Peart, who shall appoint a deputy, (should he be unable to act) and who shall keep him briefed on any relevant issues that he/she may be required to deal with in his absence.

2. Roles and responsibilities

- 2.1 Under the Act, the Monitoring Officer has a duty to prepare a report if it appears to him/her that any proposal, decision or omission by the Authority would:
 - breach any enactment or rule of law; or
 - constitute maladministration or injustice as defined by the Local Government Act 1974.

In order to determine whether to prepare such a report, the following arrangements and principles will operate between Members and officer colleagues on the one hand, and the Monitoring Officer on the other.

- 2.2 Reports and decision-making
 - (a) As a member of the Corporate Management Team, the Monitoring Officer will have advance notice of those meetings, their agenda and reports, and the right to attend and speak;
 - (b) The Monitoring Officer or his/her staff will be provided with copies of all reports to Members in good time (i.e. at least 10 working days) before the reports are submitted for printing in order to confirm whether the proposal, decision or omission, by the Authority as outlined in the report would breach any enactment or rule of law; or constitute maladministration or injustice.
 - (c) Officers are obliged to incorporate the comments of the Monitoring Officer into reports. If this is not observed the Monitoring Officer reserves the right to recommend the withdrawal of the report or issue a separate report to Members explaining his/her views on the matter for consideration;
 - (d) Officers and Members must alert the Monitoring Officer to any informal or formal meeting between Cabinet Members or Committee Chairs and senior officers where procedural, vires or constitutional issues are likely to arise;
 - (e) The Monitoring Officer will have the right to attend any meeting of the Council, featuring either Members or officers, (including the right to be heard) before any binding decision of the Council is made;

- (f) The Monitoring Officer will act as the Proper Officer in relation to the preparation, publication and retention of records of decisions taken by or on behalf of the Executive;
- (g) As required by statute, the Monitoring Officer will report to Council as necessary on the staff, accommodation and resources he/she requires to discharge his statutory duties;
- (h) In consultation with the Mayor, Cabinet, Standards Committee and the Standards Board for England, the Monitoring Officer may defer the making of a formal report under section 5 of the Local Government and Housing Act 1989 (a Monitoring Officer Report), where another investigative body is involved.

2.3 Legality, vires and constitutional issues

- (a) Senior Officers will alert the Monitoring Officer to all emerging issues of concern including legality, vires and constitutional issues;
- (b) The Monitoring Officer will meet regularly with the Chief Executive and the Chief Finance Officer (the Section 151 Officer) to consider and recommend action in connection with corporate governance issues and other matters relating to legal, procedural, impropriety or other constitutional issues that are likely to, or do, arise;
- (c) The Monitoring Officer will be available for Members and officers to consult on any issues relating to the Council's legal powers, possible maladministration, propriety and probity issues and for advice on the Constitution;
- (d) After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will have the right to notify the Police, the Council's Auditors and other regulatory agencies of his concerns in respect of any matter and to provide them with the documents to assist them in their statutory functions;

2.4 Ethics and probity

- (a) The Monitoring Officer will ensure the Standards Committee is supported in its mission to maintain high standards of ethics and probity;
- (b) The Monitoring Officer will develop good working relationships with the Standards Committee, Ombudsman, the District Auditor and the Standards Board for England;
- (c) In carrying out investigations of any kind, the Monitoring Officer will have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his functions;
- (d) The Monitoring Officer will be expected to support the Standards Committee in the local determination of complaints against Members where allegations of misconduct are referred to him by the Standards Board for investigation, or where investigations are referred for local determination by an Ethical Standards Officer;
- (e) The Monitoring Officer may give informal advice and undertake relevant enquiries into allegations of misconduct by Members in the absence of a written complaint received by the Standards Board for England, and if appropriate will make a written report to the Standards Committee, unless the Chair of the Standards Committee, the Chief Executive and the Monitoring Officer decide that a report is unnecessary;
- (f) The Monitoring Officer will carry out investigations of misconduct allegations in compliance with any direction of Ethical Standards Officers;

- (g) The Monitoring Officer will have the power to delegate any part of his role in relation to investigations in compliance with directions of Ethical Standards Officers to another appropriately qualified officer within the Legal Services Department or externally;
- (h) The Monitoring Officer will be responsible for preparing a training programme for Members on the ethical framework, subject to approval of the Standards Committee;
- (i) The Monitoring Officer will maintain the registers of Members' Financial and other Interests, Gifts and Hospitality;
- (j) The Monitoring Officer will investigate any application for a dispensation and report as necessary to the Standards Committee for decision;
- (k) Officers and Members will alert the Monitoring Officer to any issues of concern to the Council concerning ethics and probity;
- (l) The Monitoring Officer has the right to obtain external legal advice, from an independent barrister or solicitor, on any matter. He/she shall be given sufficient resources to enable this to be done;
- (m) The Monitoring Officer will be able to appoint an independent legal adviser to assist the Council in relation to an investigation where a Member is alleged to be in breach of the Code of Conduct. He/she shall be given sufficient resources to enable this to be done;
- (n) To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure that adequate insurance and indemnity arrangements are in place in order to protect and safeguard the interests of the Council and the proper discharge of the role of the Monitoring Officer.

3. Conflicts

- 3.1 Where the Monitoring Officer receives a complaint or becomes aware of a potentially reportable issue or event relating to a matter on which he/she has already advised, the matter shall be dealt with by the Deputy Monitoring Officer who will report to the Chief Executive and/or the authority as appropriate.

4. Sanctions for breach of this Protocol

- 4.1 Complaints about a breach of any matters in this Protocol by Members may be referred to the Standards Committee of the Council and the relevant Leader and/or Chief Whip of the Party Group concerned.
- 4.2 Complaints about breaches of this Protocol by officers will be referred to the relevant Chief Officer and/or the Chief Executive.

Summary of Monitoring Officer functions

Function	Source of Function
1. Report on contravention or likely contravention of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3. Appointment of Deputy Monitoring Officer.	Section 5 Local Government and Housing Act 1989.
4. Report on resources needed to undertake Monitoring Officer functions.	Section 5 Local Government and Housing Act 1989.
5. Investigate misconduct in compliance with Regulations and directions of Ethical Standards Officers (ESO).	Regulations under Section 66(1) and 66(6) Local Government Act 2000. Direction from ESO in individual cases.
6. Establish and maintain registers of members interests and gifts and hospitality.	Section 81 Local Government Act 2000 and Members' Code of Conduct.
7. Advice to Members on interpretation of the Code.	Members' Code of Conduct
8. Key role in the framework for local determination of complaints. Advice to Members, officers and the public on the operation of the Code and how alleged breaches should be investigated.	S66 of the LGA 2000 Statutory guidance para. 8.20
9. Liaison with Standards Board for England and Ethical Standards Officers.	Regulations under sections 54(4), 57(3) and 66 of the LGA 2000.
10. Compensation or remedy for maladministration.	S.92 Local Government Act 2000.
11. Advice on vices issues, maladministration, financial impropriety, probity, budget and policy framework to all members.	DCLG guidance.

LONDON BOROUGH OF HARROW**PROTOCOL FOR CHIEF FINANCE OFFICER RESPONSIBILITIES****1. Introduction**

- 1.1 This protocol describes the principal functions of the Chief Finance Officer and the way in which the Council expects him or her to discharge those functions.
- 1.2 The Chief Finance Officer is a statutory appointment required by section 151 of the Local Government Act 1972, who shall be responsible for the proper administration of financial affairs of the Authority.
- 1.3 A summary list of the statutory responsibilities of the Chief Finance Officer appears in the table annexed to this document.
- 1.4 The current responsibilities of the Chief Finance Officer rest with the Director of Financial & Business Strategy, Myfanwy Barrett who shall nominate a member of her staff as Chief Finance Officer (if she is unable to act owing to absence or illness).

2. Roles and responsibilities

- 2.1 Under the Local Government Financial Act 1988 ("the 1988 Act"), the Chief Finance Officer has a duty to prepare reports if it appears to him/her that:
- Any Council decision or likely decision would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account;
 - Any Executive decision or likely decision would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account;
 - The expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

Under the Local Government Act 2003 ("the 2003 Act") the Chief Finance Officer has a duty to prepare reports on:

- The robustness of the authority's budget calculations;
- The adequacy of the authority's proposed financial reserves; and
- Previous years' financial reserves if it appears that controlled reserves is or likely to be inadequate including recommendations for appropriate actions.

The Chief Finance Officer will assist the Council in the carry out regular budget monitoring in accordance with section 28 the 2003 Act. If as a result it appears that there has been a deterioration in its financial position, the Council, must take such action, as it considers necessary to deal with the situation.

In order to determine whether to prepare a report in accordance with the roles and responsibilities, the following arrangements and principles will operate between Members and officer colleagues on the one hand, and the Chief Finance Officer on the other.

2.2 Reports and decision-making

- (a) As a member of the Corporate Management Team, the Chief Finance Officer will have advance notice of those meetings, their agenda and reports, and the right to attend and speak;
- (b) The Chief Finance Officer or his/her staff will be provided with copies of all reports to Members in good time (i.e. at least 10 working days) before the reports are submitted for printing in order to confirm whether the proposal, decision or likely decision would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account;
- (c) Officers are obliged to incorporate the comments of the Chief Finance Officer into reports. If this is not observed the Chief Finance Officer reserves the right to recommend the withdrawal of the report or issue a separate report to Members explaining his/her views on the matter for consideration;
- (d) The Chief Finance Officer is responsible for the proper administration of the financial affairs of the Council and will have unqualified access to all financial information held by all the departments of the Council and to any officer within those departments who can assist in the discharge of his/her functions;
- (e) The Chief Finance Officer will have the right to attend any meeting of the Council, featuring either Members or officers, (including the right to be heard) before any binding decision of the Council is made;
- (f) As required by statute, the Chief Finance Officer will report to Council as necessary on the staff, accommodation and resources he/she requires to discharge his/her statutory duties;
- (g) In consultation with the Chief Executive and the Monitoring Officer the Chief Finance Officer may defer the making of a formal report under section 114 of "the 1998 Act" or section 25 of "the 2003 Act" (a Chief Finance Officer Report), where another investigative body is involved.

2.3 Legality, vires and constitutional issues

- (a) Senior Officers will alert the Chief Finance Officer to all emerging issues of concern including contractual, financial, budgetary or other relevant issues referred to in the constitutional;
- (b) The Chief Finance Officer will meet regularly with the Chief Executive and the Monitoring Officer to consider and recommend action in connection with corporate governance framework, contract procedure rules, financial regulations and budgetary issues that are likely to, or do, arise;
- (c) The Chief Finance Officer will be available for Members and officers to consult on any issues relating to the Council's, impropriety, probity, budget and policy framework issues, contract procedure rules or financial regulations or other relevant issues referred to in the constitution;
- (d) The Chief Finance Officer will have the right to add further contractual, financial or other relevant guidance as he/she considers appropriate from time to time;
- (e) After consulting with the Chief Executive and Monitoring Officer, the Chief Finance Officer will have the right to notify the Police, the Council's Auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with the documents to assist them in their statutory functions;

2.4 Ethics and probity

- (a) The Chief Finance Officer will develop a good working relationship with the External Auditor appointed by the Audit Commission;

- (b) In carrying out investigations of any kind, the Chief Finance Officer will have unqualified access to any information held by the Council and to any officer who can assist in the discharge of her functions;
- (c) The Chief Finance Officer will be expected to support the Audit Committee;
- (d) Officers and Members will alert the Chief Finance Officer to any issues of concern to the Council concerning financial impropriety and probity;
- (e) The Chief Finance Officer has the right to obtain external advice, on any matter. He/she shall be given sufficient resources to enable this to be done;
- (f) To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure that adequate insurance and indemnity arrangements are in place in order to protect and safeguard the interests of the Council and the proper discharge of the role of the Chief Finance Officer.

3. Sanctions for breach of this Protocol

- 3.1 Complaints about a breach of any matters in this Protocol by Members may be referred to the Standards Committee of the Council and the relevant Leader and/or Chief Whip of the Party Group concerned.
- 3.2 Complaints about breaches of this Protocol by officers will be referred to the relevant Chief Officer and/or the Chief Executive.

Summary of Chief Finance Officer functions

Function	Source of Function
1. Responsibility for the proper administration of financial affairs of the Council	Section 151 Local Government Act 1972
2. Duty to nominate a member of his/her staff as chief financial officer (if unable to act owing to absence or illness)	Section 114 Local Government Financial Act 1988
3. Duty to report on a Council decision or likely decision which would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account.	Section 114 Local Government Financial Act 1988
4. Duty to report on an Executive decision or likely decision which would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account.	Section 114A Local Government Financial Act 1988
5. Duty to report if the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure	Section 114 Local Government Financial Act 1988
6. Duty to report on the robustness of the authority's budget calculations.	Section 25 Local Government Act 2003
7. Duty to report on the adequacy of the authority's proposed financial reserves	Section 25 Local Government Act 2003
8. Duty to report on previous years' financial reserves if it appears that controlled reserves is or likely to be inadequate, including recommendations for appropriate actions to rectify	Section 27 Local Government Act 2003
9. Duty to assist the Council in carrying out regular budget monitoring	Section 28 Local Government Act 2003