

REPORT FOR DECISION

Agenda
Item

MEETING: STANDARDS COMMITTEE
DATE: WEDNESDAY 24 OCTOBER 2007
SUBJECT: ANNUAL REPORT
REPORT FROM: MONITORING OFFICER
CONTACT OFFICER: JAYNE HAMMOND, DIRECTOR OF LEGAL AND
DEMOCRATIC SERVICES

TYPE OF DECISION: COMMITTEE

**FREEDOM OF INFORMATION/
STATUS:** OPEN

SUMMARY:

To report to Members on a range of matters within the remit of the Committee.

OPTIONS AND RECOMMENDED OPTIONS (with reasons):

The Committee is asked to note the report.

IMPLICATIONS -

Corporate Aims/Policy Framework: Do the proposals accord with the Policy Framework? Yes No

Financial Implications and Risk Considerations There are no such implications arising from this report.

Statement by Director of Finance and E-Government: Not applicable

Equality/Diversity implications Not applicable

Considered by Monitoring Officer: Yes

Are there any legal implications? Yes No
 These are set out in the report.

Staffing/ICT/Property: Not applicable
Wards Affected: All
Scrutiny Interest: Not applicable

TRACKING/PROCESS **DIRECTOR: JAYNE HAMMOND, DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
	Yes – Chair		
Scrutiny Commission	Executive	Committee	Council
		Yes	

1.0 INTRODUCTION

This is the second Annual Report of the Monitoring Officer and its purpose is not only to provide an overview of the work of the Monitoring Officer in the past eighteen months but also to identify and promote examples of best practice and to provide an opportunity to review and learn from experience. This report therefore, sets out the Monitoring Officer’s statutory responsibilities; summarises how these duties have been discharged during 2006/07 in accordance with the Council’s Constitution, legislative requirements and relevant Government guidance and draws attention to those issues which will require attention in the year ahead.

2.0 RECOMMENDATIONS

2.1 *That the Standards Committee:*

1. Notes the Monitoring Officer’s Annual Report.
2. Comments on any matters set out in the report.

3.0 THE MONITORING OFFICER PROTOCOL

The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer. The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with Codes and Protocols, promoting good governance and high ethical standards. A schedule summarising the Monitoring Officer’s functions is set out in paragraph 3.1 below. The Monitoring Officer has a Protocol which provides guidance for Members, Officers, partners and others on how the duties of the Monitoring Officer will be carried out. The Protocol is published in the Constitution and is on the Council’s website.

4.0 CONSTITUTIONAL REVIEW AND REVISION

4.1 This year a number of changes have been made to the Constitution by Full Council on an incremental basis. Most notably these have included the introduction of a new Code of Conduct and changes to the area arrangements (Area Boards to Local Area Partnerships) and to the Policy framework.

4.2 In 2006 the Full Council also experimented with an initiative to promote the open discussion of community issues, with a partial suspension of some of the Council Procedure Rules to enable full debate of the subject matters.

4.3 The New Code

The new statutory code was approved by Council on 16 May 2007. Member training, for all members, took place on 14 June 2007. Members have also received guidance booklets and cards from the Standards Board. Members of this Committee have also been kept apprised of the proposed local filtering arrangements. The Monitoring Officer has also participated in the interviews of prospective Independent Member Co-optees to this Committee.

4.4 Fitness for Purpose

The Constitution's principles, aims and objectives are set out in Article 1. The Constitution commits the Council to provide clear leadership to the community in partnership with citizens, stakeholders, businesses and other organisations to support the active involvement in its decision making processes.

It seeks to achieve the following broad objectives:

- Clear decision-making
- Transparency about who makes decisions
- Inclusive decision-making
- A focus for community leadership
- Effective and efficient use of resources

A new modular Constitution is anticipated (from the Department of Communities and Local Government), but subject to this a full review of the Constitution may be necessary to ensure it is accessible and "user friendly".

5.0 LAWFULNESS AND MALADMINISTRATION

The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers and is lead adviser on compliance with the Budget and Policy Framework. Part of this role involves monitoring reports, agendas and decisions to ensure compliance with legislation and the Constitution. The Monitoring Officer also has a duty to ensure that Executive decisions and the reasons for these decisions are made publicly available. This is done through the Council's website:

www.bury.gov.uk then View council agendas, minutes and meetings

If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration she must report to the Full Council or where appropriate the Executive after first consulting with the Head of Paid Service and Chief Finance Officer. Any proposal or decision that is subject to such a report cannot be implemented until the report has been considered. The Council has an ambitious agenda, having dramatically improved services evidenced by increased customer satisfaction. Sound governance arrangements operated by the Council have ensured that the power to report potentially unlawful decision making has never been used.

5.1 *Reports from the Local Government Ombudsman*

Reports from the Local Government Ombudsman regarding service delivery failures which amount to maladministration are rarely received. If received these are reported to the Standards Committee and/or the Council along with proposals for remedial action. There were no findings of maladministration in the period 2006/07.

6.0 GOOD GOVERNANCE

6.1 The Monitoring Officer has a pro-active role in ensuring good practice, procedures and governance. This involves promoting networking, collaboration and joined-up working practices and decision making as well as ensuring standing orders, codes of practice and procedures are kept under review and up to date. Collaborative working entails regular liaison with other monitoring officers and statutory officers as well as working in partnership with other departments to develop and disseminate policies and procedures. Work carried out to develop and refine the Council's Statement of Internal Control represents a good current example of collaborative working. It further involves providing appropriate procedural notes, guidance, developing and implementing protocols, providing briefings and enabling effective support to Councillors in their different roles, including Member training.

6.2 *Partnership Toolkit*

Bury Local Strategic Partnership was set up in 2001 and has evolved into "Team Bury". This brings together a whole range of partners to work with the Council to tackle key issues for Local People. The Council is not always the accountable body for its significant partnerships and so the Monitoring Officer has established a Toolkit of practice to ensure appropriate governance standards in terms of new and existing partnerships. This also contains full risk management provisions developed by the Council's Risk Manager. This will be placed on the Council's Internet.

7.0 THE ETHICAL FRAMEWORK AND SUPPORT TO THE STANDARDS COMMITTEE

7.1 As lead officer for the Standards Committee and the ethical framework the Monitoring Officer has a key role in facilitating and promoting high standards of conduct within the Authority. As well as policy development and implementation, this also involves advising Members and Officers on propriety issues, considering applications for dispensations (as delegated by the Standards Committee) and investigating breaches of the Code of Conduct. The Standards Committee plays a major role in the ethical framework and in promoting high standards of behaviour.

Examples of the work of the Standards Committee over the last year include:-

Amending the Procedures for Local Determinations of Allegations.

Considering the Ethical Governance Survey for members and employees.

Considering and contributing to the Corporate Complaints Procedure.

Provision of Standards training/bulletins

Code of Conduct for Non Voting Representatives

7.2 *Maintaining the Register of Member Interests*

The Monitoring Officer is responsible for establishing and maintaining a Register of Members interests. Following changes to the Code of Conduct, details of gifts and hospitality become “personal interests” that need to be made available in the public register of interests kept by the Monitoring Officer.

7.3 *Overseeing Registration of Employee Interests*

All Council employees have a duty to maintain conduct of the highest standards to help to build public confidence in the Council’s integrity. Every employee has a duty under section 117 of the Local Government Act 1972 to make a written declaration of any existing or proposed oral or written contract with the Council in which they have a direct or indirect financial interest. Failure to comply is a criminal offence. This information is collected by Managers.

7.4 *Overseeing Registration by Employees of Gifts and Hospitality*

Each directorate is responsible for keeping an up-to-date record of any favours, gifts and hospitality offered and/or received. Failure to comply with the Code of Conduct may be a breach of conditions of employment and could form the basis of disciplinary proceedings. Guidance of employees on declaring gifts and hospitality and personal interests has been placed on the Council’s Intranet. An “online” form is also available for employees to complete where appropriate and the Monitoring Officer has full access to these.

7.5 *The Standards Board for England, Standard Board Complaints and Determinations*

The Monitoring Officer is responsible for establishing and maintaining an effective working relationship with the Standards Board for England. In addition the Monitoring Officer is responsible for receiving reports from Ethical Standards Officers regarding investigations carried out by the Standards Board into the conduct of Councillors, the conduct of local investigations and local hearings. Overall 7 complaints regarding Councillors have been made to the Standards Board. All of these were found not to constitute breaches of the Code at the assessment stage and were not therefore pursued by the Standards Board.

7.5 Local Filter of Complaints

Proposals for amendments to the ethical framework were announced in the Local Government White Paper in 2006. These proposals are aimed at devolving most decision making on the conduct regime for Councillors to local authorities, with a revised regulatory role for the Standards Board. Members of this Committee were consulted and commented on these proposals. The Local Government Public Involvement in Health Bill 2006-07 provides for individual local standards Committees of authorities to undertake the role currently exercised by the Standards Board of conducting the initial assessment of allegations of misconduct. The Standards Board has been conducting pilot arrangements and attached (at Appendix 1) is a draft "Local Filter Pilot Complaint Handling Chart" which is to be discussed at the Sixth Annual Assembly of Standards Committees.

8.0 CORPORATE COMPLIANCE WITH LEGISLATION

Monitoring compliance with legislation is carried out by reviewing each Directorate Service Plan, inputting into the business of the Council's Management Board and input by the Monitoring Officer/Legal Services into all reports with legal implications.

Monitoring the implementation of legislation is also done effectively through reviews of performance, especially where this is linked to achieving key service deliverables and performance indicators.

There has been increasing evidence of inter-directorate working in implementing new legislation. Examples include the work of the Corporate Diversity Group to achieve Level 3 of the Diversity Standard and the Freedom of Information Act Working Group, which ensures that the Council complies with the requirements of the Freedom of Information Act 2000. Additionally, new legislation is implemented via inter-agency groupings such as the Crime and Disorder Reduction Partnership and Children and Young Peoples Strategic Partnership (soon to be Children's Trust).

9.0 MEMBER TRAINING AND DEVELOPMENT

9.1 The overall direction and development of the Member Training and Development programme is the responsibility of the Member Training Working Group, which undertakes to assess its accessibility and effectiveness in achieving Council objectives.

New Members induction took place following the elections in May 2006 and May 2007.

The Members Training programme has been vital in the promotion of good corporate governance and compliance. The group is made up of the Leaders of the political groups, senior officers and the officer with responsibility for elected member development. The group has adopted a Member Development Strategy which is reviewed annually to reflect changing needs and priorities. The programme focuses on training in areas where there is recognised corporate or individual need to facilitate effective member performance in their roles as decision makers, regulators, scrutinisers and community representatives. Four training dates are planned into the diary to deliver afternoon and evening sessions, to ensure maximum attendance. The

Council was awarded the North West Member Development Charter in 2005 and will be reassessed for this in 2008.

To date the following training has been offered to Members in relation to improving corporate governance:

Community Cohesion
Preparing the Annual Council budget
Comprehensive Performance Assessment
New Code of Conduct

Additionally, Members attend external training and conferences (for example LGA and Standards Board).

9.2 ***Members' Bulletin***

Members receive bulletins on Standards issues on a quarterly basis.

10.0 **THE INDEPENDENT REMUNERATION PANEL**

The role of the Independent Remuneration Panel is to recommend to Council a Scheme of Allowances, for Members in recognition of the time Members spend carrying out their duties under the provisions of the Local Government Act 2000. In summary, the scheme incorporates basic allowances, special responsibility allowances, and the payment of travel and subsistence allowances to all Members. The Independent Remuneration Panel carried out a review of the scheme in May 2007 and found that it was consistent with other schemes in Greater Manchester. The Panel considered:

- Payment of Special Responsibility allowances to the Council's representative on the GM Waste Disposal Authority.
- Payment of subsistence allowances
- Chairs of former Area Boards

11.0 **SUPPORT TO COUNCIL, CABINET, SCRUTINY AND COMMITTEE MEETINGS**

11.1 ***Statutory Meetings – Analysis***

One of the explicit aims of the Local Government Act 2000 was to streamline the decision making process to allow Councils to focus on service delivery. The number of statutory meetings serviced in 2006/07 has increased on numbers in previous years.

In 2006/07 the following were serviced:

Bodies	Number of Meetings
Full Council Meetings	9
Executive	13
Scrutiny, Regulatory, Partnerships	166
Area Boards	40

This volume of meetings represents a substantial commitment of both Councillors' and officers' time and resources. It is of great importance that meetings constitute an effective use of time and resources; that they add value to corporate effectiveness and help in meeting the aims and objectives set out in Article 1 of the Constitution. The effectiveness of meetings needs to be considered in the context of an overall programme of work which takes account of proper forward planning, consultation and public engagement, the need for political debate on issues of importance as well as streamlined decision making at the appropriate level.

There have been significant improvements in the last year with improvements in the Scrutiny process being noted.

11.2 *Preparing and Publishing the Forward Plan*

The co-ordination and maintenance of the Forward Plan is central to meeting the requirements of good governance as it enhances open and transparent decision making.

In compliance with Access to Information Procedure rules and the constitution, the Forward Plan sets out key decisions which will be taken by the Executive. The forward plan sets out the date/period within which the decision will be taken, principal groups which will be consulted before the decision is taken and the means by which consultation will take place. The Forward Plan is published on the Council's website.

12.0 SCRUTINY

Only one matter was called in (to Council) during this period. The work of the Scrutiny Commissions has been full and varied and is summarised in an Annual Report.

13.0 OFFICIAL SIGNING AND SEALING

The Monitoring Officer is responsible for overseeing the signing and sealing of official documents. A check is made that the application of the Council's seal has been duly authorised and a register is kept of all documents signed and sealed. During 2006/07 over 1,300 documents were sealed. Of that number, the majority were transfers/partial transfers of land.

14.0 CONCLUSION

The Monitoring Officer's role encompasses both proactive and reactive elements. The proactive role centres on raising standards, encouraging ethical behaviour, increasing awareness and utilisation of the elements of good governance and ensuring that robust procedures are in place. The reactive role focuses on taking appropriate action to deal with issues and potential problems as they arise. The Monitoring Officer's effectiveness in this role is in turn dependent on effective systems and procedures being in place to identify problems and ensure that Members, Officers and the public are aware of appropriate channels to raise concerns. Contributions on continued development of the Monitoring Officer role would be welcome.

Contact Details:-

Jayne Hammond, Council Solicitor and Director of Legal and Democratic Services,
Town Hall, Bury BL9 OSW.

Telephone No: 0161 253 5002
