



ISLINGTON

Law and Public Services
Town Hall, Upper Street, London N1 2UD

Report of : Director of Law and Public Services

Meeting of	Date	Agenda Item	Ward(s)
Standards Committee	19 th April 2005	8	

Delete as appropriate	Exempt	Non-exempt
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**Subject: ROLE AND RESPONSIBILITIES OF THE MONITORING OFFICER
AND GUIDANCE ON PUBLICITY BEFORE THE GENERAL
ELECTION**

1. Synopsis

- 1.1 The purpose of this report is to update members on the role of the Monitoring Officer and to make suggestions for possible items for future consideration by the Committee.

2. Recommendations

- 2.1 To note the information contained in this report relating to the role of the Monitoring Officer.
- 2.2 To agree future items for consideration by this Committee.

3. Background

- 3.1 The report of the Comprehensive Performance Assessment carried out last year noted that the Standards Committee was not proactive enough. At its last meeting, the Committee asked for steps to be taken to improve the publicity issued in connection with the Committee and this has been progressed. It also asked for further information in relation to the role of the Monitoring Officer and for suggestions as to possible items for future consideration. In this respect members were mindful of the need not to duplicate work being carried out by other Committees whilst at the same time ensuring that in matters where issues of probity are relevant, the Standards Committee has an input.

- 3.2 The Monitoring Officer has contacted the National Audit Office which was mentioned in the CPA report but they have no information as to best practice for Standards Committee. Accordingly, she has looked at minutes and agendas for other Standards Committees based in London and outside and it would seem that they are remarkably similar to the agendas which have been before this Committee. However, they do consider some other issues and suggestions are made in relation to these below.

4. Role of the Monitoring Officer

- 4.1. The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989 and has a number of statutory functions in addition to those recently conferred under the Local Government Act 2000 and subsequent regulations governing local investigations into member conduct.
- 4.2. The Monitoring Officer is required to prepare a report to Council where it appears to her that the authority has or is about to do anything which would be in contravention of the law or which would constitute maladministration.
- 4.3. Before publishing any report, the Monitoring Officer is under a duty to consult with the Chief Executive and the Chief Finance Officer (also known as the S151 Officer). Depending upon whether or not the function concerned is an executive one, the report has to be considered either by Full Council or by the Executive and the publication of the report has the effect of suspending the proposed action pending consideration of the report.
- 4.4. The S151 Officer has similar powers under S114 of the Local Government Finance Act 1988, where it appears that the action concerned would involve unlawful expenditure.
- 4.5. Prior to the commencement of the Local Government Act 2000 and the provisions relating to conduct contained within it, the Monitoring Officer also had a duty to report in relation to breaches of Statutory Codes of Practice but this requirement has been removed.
- 4.6. The Council is required to provide the Monitoring Officer with all resources necessary to carry out her functions and it is essential that even if the person is not on the senior management team of the Council, she has regular access to Chief Officers and elected Members in order to carry out her duties.
- 4.7. Formal reports under S5 of the 1989 Act are extremely rare; there has only been 1 in the last 4 years. In practice, the Monitoring Officer tends to be more pro-active, advising the lawfulness of all transactions before they are formally agreed in order to avoid the need for reports to be produced after the event. In the recent Comprehensive Performance Assessment, the Council scored well in relation to its arrangements for ensuring the legality of financial transactions.
- 4.8. Since the inception of the Local Government Act 2000 and the framework for members conduct contained within it, the role of the Monitoring Officer has considerably increased and this Committee has previously considered that role in the context of investigations into members conduct which have been referred to the Standards Board.

4.9. Elections

One of the roles of the Monitoring Officer is to ensure that the law and the codes of practice relating to local authority publicity are complied with. This is particularly important in the run up to the election and attached as Appendix "A" is the election protocol which is drawn up and circulated to all key officers and members to ensure that the law is not broken.

5. Items for Future Consideration

5.1. As stated above, the types of matters considered by other Standards Committees do not differ in any significant respect from those considered by this Committee. Having looked at their websites, it is possible to identify a number of matters which it would be possible for this Committee to consider and which can be grouped under a number of headings.

5.2. Financial Matters

Members may be aware that there has been some debate as to whether an Audit Committee ought to be established and it has been agreed that the Corporate Services Committee will take on an Audit role. However, there are a number of activities which are audit related which may also concern the Standards Committee in so far as activities which they regulate and contain a potential for fraud or a breach of people's rights. Accordingly, it would be possible and appropriate in the view of the Monitoring Officer for the following matters to be looked at, possibly prior to their consideration by Corporate Services Committee so that that body would have the benefit of the views of the Standards Committee;

- a. The Council's Antifraud Policy
- b. The Council's Statement Of Internal Control
- c. The DA's Annual Management Letter
- d. The Council's policy under the Regulation of Investigatory Powers Act 2000. This is the act under which the authority is entitled to carry out covert surveillance and it used primarily by officers in the Public Protection and Housing Benefit sections. The Council is inspected in relation to its activity and record keeping under this Act about every 3 years and inspection report and remedial action could be considered by this Committee.

5.3. Ethical Health Generally

The Audit Commission is developing a process by which Council's can self-assess the ethical health of the organisation. Amongst other things, this involves sending questionnaires to key officers and all members to ascertain the level of their understanding of what comprises good corporate governance and ethical behaviour. The model is currently being finalised and it is recommended that this authority undertake it once it is available. The results of the analysis could then be considered by this committee.

5.4 **Members Training Programme**

Connected with this is a clear requirement for members to be aware of their roles and responsibilities, which may differ depending upon the nature of the role and the Committees upon which an individual sits. It is recommended that the Committee consider the annual training programme for members as near as possible to the beginning of the Municipal Year.

5.5. **Constitutional Matters**

The London Borough of Southwark regularly involves its Standards Committee in its constitutional review, it is considered that a detailed look at the constitution would not be of benefit to Standards Committee members and would probably add little value to the review itself. However, there are some aspects of the constitution, for instance the Procurement Code and the Financial Regulations which are such as to lend themselves to scrutiny by this Committee. It is therefore suggested that this Committee become involved in the review of the relevant parts of the constitution as and when appropriate.

6. **Conclusion**

Members are therefore asked to decide which of the above matters they may wish to consider in the future following which a work programme for the year will be drawn up. This will be in addition to the regular reports received in relation to ethical indicators and it will be noted from the report at item 5 of the agenda that we are now including compliance with Freedom of Information requests as part of that report. In addition, the Committee will continue to contribute to consultation responses in relation to standards and code of conduct matters as well as dealing with any unusual cases which may be referred to it.

Final Report Clearance

Signed by



Director of Law and Public Services

Date: 7.4.05

Received by

Head of Scrutiny and Democratic Services

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