

South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB3 6EA

t: 08450 450 500
f: 01954 713150
dx: 729500 Cambridge 15
minicom: 01480 376743
www.scambs.gov.uk



South
Cambridgeshire
District Council

STANDARDS COMMITTEE

David E. M. Gilbertson QPM, BSc(Econ), FBIM

Chairman

Greg Harlock,
Director,
Finance and Resources,
South Cambridgeshire District Council,
South Cambridgeshire Hall,
Cambourne Business Park,
Cambourne,
Cambridge,
CB3 6EA

Thursday 13th October 2005

Dear Mr Harlock,

Ethical Standards in the Authority and the role of the Monitoring Officer

As I am sure you are aware from conversations that you have had with Colin Tucker, the profile of ethical standards, in the broadest sense of the term, is likely to figure significantly in many areas of the Council's business in the months and years ahead. There are clear indications from government and the Standards Board for England that the subject will become a matter of strategic importance for elected members and officers, with new duties being devolved to authorities. Therefore, for reasons that I will set out below I believe that it is vital for the authority to position itself to meet the challenge of new responsibilities, both in terms of appropriate resourcing and the manner in which the whole subject of probity in public life is dealt with.

As chairman of the Standards Committee, I have an obligation under the constitution of the authority and relevant legislation to ensure that the Monitoring Officer and my committee are kept fully briefed on strategic developments. Implicit in this is the need to keep the Leader and the Chief Executive 'up to speed'.

During September I attended the Fourth Annual Assembly of Standards Committees which took place over two days in Birmingham. The conference, (*unlike many that I have attended*), was extremely worthwhile and was used by the S.B.E. as an opportunity to brief Committee chairs, Monitoring Officers and local politicians on likely policy changes and the stance of government. In addition to Sir Anthony Holland, the chair of the S.B.E. who opened the conference, there were keynote speeches from Phil Woolas, the Minister for Local Government in the ODPM, and Sir Alistair Graham, the chair of the Committee on Standards in Public Life. Sir Alistair's

contribution was particularly significant because he has just completed the 'Graham Review' - (10th Report of the CSPL 2004 – 'Getting the Balance Right') – which has made a number of recommendations about local government ethical standards. The report is currently with ministers and according to Phil Woolas is likely to receive "a favourable following wind in terms of necessary legislation."

All three developed the same argument – which was reflected in the title of the conference, 'Ethical Standards – In Your Hands'. Almost all of the key points that they raised go to the heart of good governance in local authorities, and will be of particular relevance to you and your senior colleagues as you develop strategy. In my role with the Standards Committee I certainly intend to create a work-plan which takes these issues into account. For ease of reference I have set out the salient points below.

- The role of the Standards Board for England will change over the next two years as it transforms itself into a '**Strategic Regulator**' providing high-level policy guidance, advice to ministers, and a mentoring capability for authorities, utilizing individual Standards Committees and ongoing relationships with Monitoring Officers as its delivery mechanism. **The SBE will progressively divest itself of its current investigative function**, (indeed it has already started to transfer its team of Ethical Standards Officers to other duties).

(Sir Anthony Holland and Phil Woolas)

- **Responsibility for investigation of Members Code breaches will be transferred to the Monitoring Officers of individual authorities**, with a target of 50% of all investigations by 2007, gradually increasing thereafter. It is acknowledged (by government and the S.B.E.) that the weight of investigations falls disproportionately on those authorities which have a large number of parish councils within their boundaries. Certainly more heavily than on unitary authorities which by their very nature have fewer elected members.

(Sir Anthony Holland)

- "Investigation will be fully vested in the Standards Committees, supported by Monitoring Officers. The role of the Standards Committee is not to police probity and standards. Rather it is to uphold standards and foster compliance with the Code and the broader philosophy by training, exhortation and example." Direct quote from the opening speech of the chair of the S.B.E.

(Sir Anthony Holland)

- The need for greater transparency and public confidence in the ethical standards of local authorities is directly linked to the government's '**Building Sustainable Communities**' strategy, whereby from April 2007 sizeable funding streams will be directed to Neighbourhoods via Local Area Agreements (LAG's). Ministers take the view that demonstrable probity at LAG level, particularly by those members and officers administering them, should be subject to oversight by Standards Committees.

(Phil Woolas and Sir Alistair Graham)

- A key recommendation of the 'Graham Review', which is likely to be supported by the ODPM, is that Standards Committees should have a **majority of Independent members**, (i.e. co-opted, non-political individuals), and an Independent chair.

(Sir Alistair Graham)

- Other recommendations deal with empowering local Standards Committees to conduct **the first filter of all allegations** in order to remove minor or vexatious complaints, and fostering greater **joint-working** with the Standards Committees of neighbouring authorities, especially in relation to hearings, training, and peer review.
(Sir Alistair Graham)
- There is likely to be a **'ring-fenced' training budget** made available to the S.B.E. by the ODPM, which will be used for the benefit of individual Standards Committees. Realistically however it is unlikely that it will come close to meeting the actual ongoing training needs of authorities in relation to the Members Code and associated matters.
(Sir Alistair Graham)
- The S.B.E. are in discussions with the Improvement and Development Agency to design an **'Ethical Governance Toolkit'** which will form part of the Audit Commission's regular audit of authorities and will be applied to both officers and elected members. It is intended that it should apply three tests, *(although it will be interesting to see what performance indicators are linked to them!)*.
 - a. How well are ethical standards being upheld by the authority?
 - b. Are ethical standards an agenda item where appropriate?
 - c. Does the maintenance of ethical standards have a sufficiently high profile with members and officers – how is this demonstrated?

All of this will be examined within the context of a broad 'Ethical Framework' (yet to be devised) to which all authorities are likely to be subject. A significant element will be the extent to which an 'Ethical Culture' is being fostered by the 'tone from the top' and the degree of ownership demonstrated by the Executive Team. *(As an aside it is interesting to note that Stoke-on-Trent Council have re-designated their Head of Legal Services / Monitoring Officer as 'Director of Law and Probity')*

(Sir Anthony Holland and Sir Alistair Graham)

Conclusions

Whilst some, but not all, of the above will require primary legislation, it is nonetheless obvious that there will be a great deal of new work for both the Standards Committee and the Monitoring Officer. How demanding this will be is, as yet, not clear but some aspects will require action almost immediately.

Firstly, a properly grounded programme of training for members and some officers will be necessary if we are to ensure an appropriate degree of knowledge within the authority. At our last meeting I ensured that the Vice-Chair has responsibility for co-ordinating a training strategy and she will report back to our next meeting in November. Undoubtedly however, she will need officer support.

Secondly, I have real concerns as to whether the Monitoring Officer has sufficient spare capacity in terms of resources and personnel to meet the challenge of 'new business' devolved from the S.B.E., and generated by a performance regime which has a greater focus on ethical standards. In many cases the investigations will be lengthy and time-consuming, involving a great deal of correspondence, legal oversight, and 'time away from the office' by the individual

involved. Even cases that are judged to be 'minor or vexatious' will still require an initial filtering process; a brief covering report; correspondence with the parties involved, and some form of record-keeping. More contentious cases will require a fairly sophisticated investigative capability, the recording of statements and the preservation of evidence for subsequent hearings. Indeed, I am advised by Chris Boothman, the Head of Legal Services at the SBE, that this latter point is likely to assume greater importance in the future. Recent legal decisions have confirmed that all evidential material gleaned during the course of an investigation, no matter how seemingly trivial, is 'Disclosable and Discoverable' in any subsequent civil proceedings. Colin will brief you on the legal significance of this, but in practical terms it means that a detailed system of evidence-capture and archiving would have to be put in place at a fairly early stage. None of this comes at 'nil cost' however, and I am sure that Colin will wish to discuss how these issues ought to be viewed as you develop budget allocations.

Lastly, I believe that the Chief Executive and his 'top team' need to be alive to what might be just over the horizon. In my experience it is always an advantage to have a properly thought out strategic response ready to meet change, rather than react to events as they occur. Indeed you may feel that they, and senior elected members, would draw benefit from a focused briefing at some point in the future.

I hope this letter is helpful and if I can be of any further assistance, do not hesitate to make contact. I genuinely view these matters to be important and would be failing in my duty as chair if I did not bring them to your attention.

Yours sincerely,

David Gilbertson
Chairman, Standards Committee

cc Colin Tucker