



REPORT OF:	Head of Legal and Property Services and Head of Corporate Development
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TO:	Standards Committee
DATE:	4 August 2010

WARD (S) AFFECTED:	ALL
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SUBJECT:	SURREY IMPROVEMENT PARTNERSHIP (SIP) MEMBER DEVELOPMENT EVENT – STANDARDS AND THE ETHICAL FRAMEWORK
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RECOMMENDATION:
<ol style="list-style-type: none"> 1. That Mrs. Burr and Mr. Allen be thanked for attending the SIP Member Development event – Standards and the Ethical Framework – and their helpful report back to the Committee; and 2. That the issues (and related documents) raised in the report by Mrs. Burr and Mr. Allen be built into the Committee’s work programme and considered on a rolling basis throughout the 2010/11 Municipal Year.

SUMMARY:
<ol style="list-style-type: none"> 1. Arising from their attendance at a Member Development event – Standards and the Ethical Framework - Mrs. Burr and Mr. Allen, two of the Committee’s independent members, have produced a report for the Committee to consider. This is set out as Annex 1 to this report and supporting documents have been circulated to Members of the Committee only under separate cover. 2. The report by Mrs. Burr and Mr. Allen clearly raises issues that merit consideration by the Committee. With regard to the way forward, the Head of Legal and Property Services (and Monitoring Officer) suggests a planned and incremental approach is adopted whereby each of the documents and issues raised in the event report are considered at an appropriate time in the Committee’s work programme for 2010/11.

STATUTORY POWERS

3. The Local Government Act 2000 (as amended) requires the Council to establish a Standards Committee and one of its principal responsibilities is to oversee and develop the standards regime and ethical framework within the Council (paragraph 1 of its terms of

reference. The Council is also responsible for Member Development and the Committee also has a role in this responsibility (paragraph 2 of its terms of reference) .

SURREY IMPROVEMENT PARTNERSHIP EVENT - STANDARDS AND THE ETHICAL FRAMEWORK

4. The Surrey Improvement Partnership Member Development project is Government funded and provides a range of training opportunities across all of the Surrey Districts. The free events are open to all Councillors and co-opted members (for example independent members of Standards Committees) and on occasions officers.
5. An event – Standards and the Ethical Framework – was recently held at Guildford Borough Council and two of the Committee’s independent members (Mrs. Helen Burr and Mr. Peter Allen) were able to attend.
6. Arising from their attendance, Mrs. Burr and Mr. Allen have produced a report for the Committee to consider and this is set out as Annex 1 to this report. Supporting documents have been circulated to Members of the Committee only as follows:
 - a protocol on the use of I.T by Members
 - gifts and hospitality – a code of conduct for Councillors
 - initial assessment of standards complaints – assessment and review criteria
 - initial assessment of standards complaints – Monitoring Officer protocol
 - University of Hull report – Assessing the impact of standards Committees
 - Presentation – the role and effective functioning of the Standards Committee
 - Presentation – standards of conduct for Members
7. The report by Mrs. Burr and Mr. Allen clearly raises issues that merit consideration by the Committee. With regard to the way forward, the Head of Legal and Property Services (and Monitoring Officer) supports a planned and incremental approach with each of the documents and event report issues being addressed as the Committee reviews or considers the issues during its 2010/11 work programme.
8. Some of the issues raised by Mrs Burr and Mr Allen are already adopted by the Council and the Head of Legal & Property Services will ensure all Committee members are advised where this information can be found.

LEGAL IMPLICATIONS

9. There are no legal implications arising from this report.

FINANCIAL IMPLICATIONS

10. There are no financial implications arising from this report.

EQUALITIES IMPLICATIONS

11. There are no equalities implications arising from this report.

Background Papers: None

Annex 1

Annex 1

Member Development Project – Standards and the Ethical Framework

Seminar: Standards of Conduct for Members

Venue: Guildford Borough Council on 14th June 2010

Trainer: Peter Keith-Lucas, Local Government Partner at Bevan Brittan LLP

Attended by Peter Allen and Helen Burr (Independent Members of RB&BC Standards Committee)

Below are PJA and HB's notes from the seminar on specific issues (not verbatim). Slide numbers refer to those provided by PKL (attached)

Protocols provided by PKL attached.

SLIDE	Slide Numbers typed on Slide Header
3	Protocols on 1) Gifts and Hospitality and 2) Members' use of IT : PKL has available.
5	The ' General Principles ' are aspirational statements on behavioural expectations unlike definitive approach set out in Code of Conduct. Constraints on Members' Conduct rests on 1) acting in good faith 2) acting within the authority's powers and 3) not acting for personal gain or out of malice
08/09/10	Bribery Act 2010 – useful source of clarification and wording Civil Liability see Public Health Act 1875 item 265 Members as Trustees of Public Assets i.e. not cause a loss to the LA Defamation and Qualified Privilege – i.e. even if defame someone, the defence is that it is better for the public if the Member speaks (and risks unintentional defamation) than does not contribute to the debate, as long as does not act out of malice. Acting unfairly re actual or apparent bias i.e. outside connections/influence Actual or Apparent Predetermination – i.e. have not got all relevant information before deciding
11	Difference between Predisposition and Predetermination : that there must be some <u>evidence</u> that the Member has closed their mind.
19	The Coalition intention to abolish Standards Board Regime: PKL's view that the Code will be kept but responsibility possibly transferred to the Ombudsman.
32	Treat others with respect . Sliding scale from highest standard re members of public, via council officers to fellow members – different standards apply.

	However, context important e.g. formal public meeting demands higher standard between councillors
37	Prohibited Grounds for Discrimination – main problems concern personal attacks on planning officers. Bullying: can be a one-off incident.
42	Bullying: authority has power of self-regulation e.g. banning a member from entering offices. Compromising impartiality of an officer: e.g. giving a reference for a job with the authority (is this part of RBBC code?) It is suggested that, unless RBBS already mention something to the same effect, for the avoidance of doubt and for the benefit of Independent Members “no member shall provide, or offer to provide, a reference for any candidate for employment or promotion within the authority” should be added to the Local Code.
44	General Conduct Rules: Whistle blower test e.g. defended if in Public Interest. There is also a potential risk of over reaction to some breaches of confidence where information could easily be obtained under the Freedom of Information Act.
56	General Conduct Rules: Does R&BBC have a list of rules about facilities and resources available to all members e.g. mileage, phone bill, typing services, laptop, conference costs etc that Head of Democratic Services provides? Misuse of Council Resources e.g. what lap top can be used for (!). PKL has a proforma.
61	The Model Code – Interests: new category of ‘sensitive information’ where member can inform but the information kept off the public register (e.g. working for Huntingdon Life Sciences) Personal, prejudicial and registrable interests: prejudicial interests are those which rule member out and they must withdraw.
64/65/66	Slides provide useful aide-memoire for list of Personal and Registrable Interests of which members must be aware. Does R&BBC have such a comprehensive list to hand to members?
72	Personal Interests – are members aware of the very wide definition of ‘Family’ in this context?
73	Close Association: requires a continuing relationship and can be both friends and enemies. Disclosure of Personal Interests: relates to wide range of contexts including site meetings – how aware are Members of the breadth of relevant contexts?

77	Personal Interests: Councillors must declare both the existence and the nature of personal interests.
82/83	<p>Withdrawal from the meeting for a prejudicial interest: includes public gallery.</p> <p>Making Representations: member can speak despite having a prejudicial interest if speaking as a member of the public. They must leave before the debate and the vote.</p> <p>How does RB&BC ensure the public get their speaking rights e.g. do people sign up to speak, is it the first 3 who then speak, how do we ensure fair access to the mechanisms for signing up?</p>
87	Campaigning Organisations: e.g. single issue pressure groups. Definition of a pressure group e.g. Oxfam and The National Trust are seen as campaigning groups so membership could suggest bias.
88/89/90	<p>Dispensations: have to apply to Standards Committee in advance but difficult in practice, largely through timing and unpredictability issues.</p> <p>Registerable Interests: good practice for MO to send written request to Councillors to check up to date end May/early June</p> <p>Sensitive Information: can be disclosed verbally but written better.</p>
92	<p>Local Protocols: if we don't have them, should add</p> <ul style="list-style-type: none"> • Member Officer Relations • Planning and Lobbying • Gifts and Hospitality • Use of IT
94	<p>Gifts and Hospitality: disclose both gifts accepted and gifts refused.</p> <p>General principles: 1) never solicit, 2) never accept as reward, 3) never accept if puts member in compromising situation.</p> <p>Council must set out what is acceptable.</p> <p>Procedure if accepted gift which should have been refused but public refusal inappropriate (e.g. public occasion where refusal would have caused embarrassment) e.g. register, write to giver explaining e.g. item has been put in auction for Mayor's charity fund.</p> <p>Essential that all gifts (accepted, refused or processed) are clearly registered.</p>

The future of the Standards Board

Mr. P. Keith-Lucas's own personal view was that the Coalition Government will abolish the Standards Board and transfer the function to the Ombudsman. Wales

did this in 2000. In addition, they could well take action to review and then simplify the existing code. This would be welcomed by many.

Summary of the Training Course

P. Keith-Lucas of Messrs Bevan Brittan has extensive experience in the whole area of Local Authority legislation, particularly the Code of Conduct. In addition, he has been a practitioner working in senior positions for a number of local authorities. The Course was positive and informative, and many practical and useful examples of minor and serious problems of the Code were discussed. Mr Allen and Mrs Burr were the only Independent Members present as the other attendees were all Councillors.

It is recommended that all new Independent Members and Councillors should attend future courses.

Proposals

It is recommended that this paper is circulated to all Independent Members and Councillors on the Standards Committee, Chris Cook, Ann Coronel and Margaret Quine (Deputy Monitoring Officer). It is fully recognised that certain aspects of this report and the attached protocols may not necessarily be relevant to the R&BBC Councillors as they could already exist OR are covered by other internal documents. It is, therefore, suggested that Ann Coronel and or Chris Cook prepares a short paper commenting on these specific issues. It is also recommended that both reports are an Agenda item for the next Standards meeting.

Mrs H. Burr
P.J. Allen
19th June 2010