

# ethical governance audit

## **Foreword by Beverley Hughes MP, Parliamentary Under Secretary of State, DETR**

“ Local government has a key role to play in society. It is uniquely placed to lead communities and serve local people. But effective democratic government depends on one inescapable requirement: a bond of trust between the people and those in public life who serve them.

Establishing that bond of trust requires conscious effort on the part of all local authority members and staff. The Ethical Governance Audit has been designed to assist those efforts. It is a simple yet effective tool for evaluating strengths and weaknesses, and then adjusting rules, processes and practices accordingly.

I hope that all authorities will undertake an Audit and act upon its results. The decision to do so requires a measure of courage, because those results may not always be comfortable, and the actions needed may not always be easy. But if the outcome is an authority that has done all that it can to live up to the expectations that people rightly place upon it, then that effort will have been worthwhile. Public trust is simply too valuable to take for granted.

Beverley Hughes MP  
Parliamentary Under Secretary of State, DETR”



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# PREFACE

A consultation draft of the ethical governance audit was published in March 2000. The responses to that consultation overwhelmingly supported this initiative and provided many helpful comments and suggestions.

Initial development of the audit has taken place in advance of implementation of the new legislative framework for local authorities in the Local Government Act 2000. General Principles of Conduct are expected to come into force in March 2001, followed by the Model Code of Conduct for Members in May and the Employees' Code in June. Many authorities have already experimented with new executive arrangements to the extent available under the old legislation and have set up Standards Committees with a remit to consider their ethical arrangements. A small number of authorities are currently testing the audit under their current arrangements. It is anticipated that the audit will need to be developed in the light of experience and it is, therefore, a living document.

It is important that standards within an authority are seen as both an individual and corporate responsibility and of relevance not just to personal conduct but also to the operation of the authority. The ethical governance of the authority is part of overall corporate governance.

Work on corporate governance for local government is being undertaken by a range of interested organisations. In particular, the Corporate Governance Working Party formed by CIPFA, SOLACE, the LGA and the Audit Commission has recently published a Consultation Draft document - Corporate Governance in Local Government - A Keystone for Community Governance. This provides a framework which defines the principles of corporate governance in a local authority context and considers how the principles can be reflected in the dimensions of a local authority's business. It is an overarching document which is intended to draw together the various initiatives in this area by acting as a signpost to them. In this way it refers to practical projects - such as the Ethical Governance Audit - which provide 'tool kits' to assist local authorities in self-assessment.

The Audit Commission is developing an approach to the inspection of authorities' corporate governance arrangements as they impact on service quality and the quest for continuous improvement. Standards are identified as one of the key elements of an authority's corporate governance. A definition of corporate governance for local government has been adopted by both these organisations:

**Corporate governance is the system by which local authorities direct and control their functions and relate to their communities.**

The ethical governance audit will help in establishing good corporate governance by reviewing and then improving the ethical performance of the authority. It is a practical tool which can be used by the Standards Committee to fulfil their role in promoting and maintaining high standards of conduct and assisting members to observe the Code of Conduct.

## **Introduction to the Ethical Governance Audit**

The ethical governance audit has been developed to assist councils in achieving real progress in the promotion and maintenance of high standards of conduct by members and staff and the integration of the ethical framework into the council's operations.

The audit will help councils to:

- examine current procedures
- examine current practices
- implement the ethical framework
- check and review progress

The audit will provide a 'reality check' and highlight deficiencies arising from poor systems and procedures. It can be used as an initial diagnostic tool; as an aid to implementation of the ethical framework and in ensuring a robust approach to monitoring, review and updating. Specifically, the audit can be used to:

- ensure that new council arrangements are open, accountable and ethically strong
- promote high standards of conduct
- assist in building a 'bond of trust' between councils and communities
- to identify best practice for sharing and dissemination.

Transparency, i.e. being able to reconstruct the decision process and identify what happened, how and why, and accountability, i.e. knowing who is responsible for the decisions being made, are at the heart of democratic governance.

All councils have explicit and implicit vision and values and extensive systems, procedures and protocols intended to ensure fair and transparent governance. It may be wrong, however, to assume that these 'rules' are sufficiently clear and workable to achieve the desired result and, even if they are, that all members and staff know about them, are familiar with them and act in accordance with them.

Individual members and staff are personally responsible for their conduct, but the council has a clear corporate role, led by the Standards Committee, to promote and maintain high standards of conduct. The council has no corporate liability for individual misconduct, but does have a clear corporate role, led by the Standards Committee, to promote and maintain high standards of conduct. The ethical values and standards which underpin fair and open governance are of no value unless they actually influence the day to day behaviour of members and staff and are applied consistently. Rules need to be simple, practical and integrated with the council's operations. The audit is designed to enable councils to test out the reality of their ethical performance.

The audit is a self help tool which will help to inform the council about ethical vulnerabilities. It will examine not just the council's written procedures and protocols, but whether and how those procedures are applied in practice using, for example, questionnaires and interviews with members, staff and others with relevant interests in the authority's operations. These approaches will provide valuable management information for the authority which can be used to improve ethical performance. It will help to identify:

- potential problem areas and risk factors
- gaps between official and actual values, and
- barriers to ethical operation

Importantly, the audit can inform proposals for improvement and help the Standards Committee to fulfil their role in promoting and maintaining high standards of conduct and assisting members to observe the Code of Conduct.

It is for authorities to choose whether to undertake the audit and, if so, how to do it. Whatever approach is taken there will be certain essential requirements:

- an external validation of the chosen methodology, which could, for example, be provided by reciprocal arrangements between monitoring officers in neighbouring or comparable authorities
- some tried and tested methodology needs to be included, for example questionnaires, face to face interviews with selected members and staff, and views from the public, possibly using some of an authority's existing consultation and involvement mechanisms
- an examination of the council's key information, such as standing orders, schemes of delegation, terms of reference, the new constitution, staff/member protocols and existing codes of conduct to identify whether it is up to date, easy to understand and easily available

The methodology must also make provision for consideration of the council's operation of:

- lines of accountability
- decision making procedures and arrangements
- access to information and information flows
- consultation mechanisms
- officer/member relations
- pecuniary and non pecuniary interests

To ensure the whole process is effective it must be transparent. Each authority will decide for itself how to undertake the audit, but there should be clearly recorded reasons for the choices made.

The authority will need to determine an appropriate strategy. The Standards Committee is likely to have a lead role. The strategy might, for example, provide for a series of audits over a period of time, but varying in their approach or extent. Whatever choices are made this initial stage should be an open process which considers all available options. Conscious choices should be made with clear explanations as to why a particular approach was chosen.

The authority will also need to consider how it intends to handle the results and what arrangements may be needed for action, review and monitoring, although such forward planning will need to be flexible enough to cope with changing circumstances.

It is important for all councils to be able to demonstrate that they have, and work to, a set of values which meet the legitimate expectations of those involved with them. Members, staff and the public want to engage with each other on the basis of openness, honesty, respect and fair treatment. This means asking the right questions, listening carefully to the answers and being prepared to address the issues which arise. We hope the ethical governance audit will help you to do this.



# Ethical Governance Audit

A fully effective ethical authority:

1. is open and has good access to information
2. has clear lines of accountability and responsibility
3. has developed an ethical framework designed to promote high standards of conduct and to reduce/eliminate misconduct
4. encourages, develops and maintains high standards of conduct by communication, training, development of and support to staff and members
5. seeks to build a 'bond of trust' between the council and the community
6. integrates the ethical framework into the design of its procedures and processes and into all the council's operations
7. considers ethical conduct and high standards as an important component of the council's vision for the future and in achieving its aims and objectives
8. is not complacent, is committed to improving ethical practice and standards and monitors progress
9. can demonstrate positive outcomes in its implementation and application of the ethical framework

Set out in the following pages are the key competencies and characteristics for councils to use in undertaking their ethical governance audits. The core competencies are gathered under three main headings: **integrity**, **accountability** and **standards management**.

Within these core competencies are more specific characteristics. The full set is as follows:

## **Integrity**

Ethical vision  
Communication  
Commitment and leadership

## **Accountability**

Organisational management  
Systems and process operation  
Objectivity and scrutiny

## **Standards management**

Standards integration

People and practice management

Training and development

Planning and review

For each of these characteristics there is both a definition and a set of positive indicators and contra-indicators. Together these form the guidelines for councils to use in assessing the ethical performance of the authority.

# Integrity

## ETHICAL VISION

**Definition: members and staff recognise the importance of ethical standards in local governance thus enabling the authority to construct and develop an ethical culture and values for the authority.**

### Positive indicators:

- evidence of a set of meaningful ethical values for the authority which meet the legitimate expectations of members, staff, the public, other individuals and organisations with which the council is involved
- evidence that these ethical values are known and used
- an understanding by members and senior managers of the ethical framework and its role in local governance
- an understanding throughout the authority of relevant ethical issues and standards
- active encouragement and promotion of high standards by senior managers and members

### Contra-indicators:

- complacency about standards of conduct within the authority
- little or no awareness or understanding amongst members and staff of the ethical framework or relevant ethical standards
- evidence of inappropriate conduct by members or senior staff being accepted as an inevitable part of the political nature of local government

## COMMUNICATION

**Definition: dissemination of relevant information, policies, procedures and guidance on ethical standards to members, staff, the public, other individuals and organisations with which the council is involved and encouragement of listening, dialogue and feedback.**

**Positive indicators:**

- availability to staff and members of full, accurate and clear policies, guidance and advice on ethical issues.
- evidence of good access to information for all members and the public, including appropriate policies and practice regarding exempt and confidential information.
- evidence of open attitude towards, and willingness to act on, criticism.

**Contra-indicators:**

- staff and members unaware of key rules and guidance on ethical standards and/or sources of advice.
- public perception or concern by some members or staff that ethical standards within the authority are poor
- evidence of discouragement of, or resistance to criticism

**COMMITMENT AND LEADERSHIP**

**Definition: recognition by members and staff of their individual and corporate responsibility to promote and encourage high standards of conduct throughout the authority.**

**Positive indicators:**

- active involvement by members and senior staff in setting values and standards for the organisation
- members and senior officers recognised by staff and others as having high personal/professional standards of conduct and leading by example
- understanding throughout the authority of individual and collective responsibility for the maintenance and encouragement of high ethical standards
- willingness of individuals to take action in respect of poor standards of conduct by others

**Contra-indicators:**

- individuals do not see themselves as having a role in ensuring appropriate conduct and high standards on the part of others
- members and staff displaying little or no interest or concern regarding standards of conduct within the authority
- leading members and/or senior officers take little or no responsibility for promoting high standards
- no sense of collective responsibility for maintenance and encouragement of high ethical standards



# Accountability

## ORGANISATIONAL MANAGEMENT

**Definition: the authority has clearly defined and well understood roles and responsibilities for both members and staff and clear management processes for policy development, implementation and review, and for decision making, monitoring and reporting.**

### Positive indicators:

- an explicit commitment to transparency in conduct and decision-making
- an explicit, clear set of information on member and staff roles and responsibilities, including: the roles and responsibilities of executive members, the roles of statutory officers, i.e. the Head of the Paid Service, the monitoring officer and the s.151 officer and officer/member relations
- clearly defined lines of responsibility and accountability, demonstrated for example by terms of reference, schemes of delegation and the constitution generally
- clearly defined and understood corporate and individual responsibilities for standards
- transparent recruitment and appointment processes for both staff and members (for example in appointments to outside bodies) which are recognised throughout the organisation as having integrity
- non-executive members believing they have real ability to hold the executive to account and to make a meaningful input to policy development
- ready availability to the public of relevant information in respect of members and senior staff including, for example, up to date and easily accessible registers and declarations of interests
- opportunities for the public to raise questions and receive answers at open meetings of the council and the executive and evidence that these are used
- maximisation of meetings held in public and limited use of 'exempt information' provisions
- executive uses its discretion to maximise the role of the council in relation to the policy framework
- good forward plan of key decisions
- relative roles of the council and the executive in relation to statutory officers are clear

- evidence that the council has the ability to hold the executive to account in relation to ethical standards.
- good protocols exist for officer/member relations governing the executive, overview and scrutiny and the standards committee.

**Contra-indicators:**

- lack of clarity in, or understanding by members and staff of, processes for the conduct of local authority business
- evidence of members and/or staff undertaking inappropriate roles or activities, e.g. inappropriate levels and types of decision making
- poor and/or unclear information and accountability flows
- evidence of confusion in policy development, decision making and monitoring processes
- non executive members do not identify clearly with the overview and scrutiny role within the authority or consider it is defined weakly
- members, staff or the public unclear as to who is responsible for what under the new constitution
- evidence of inappropriate use of the 'exempt information' provisions to restrict access to debate and decision making

**SYSTEMS AND PROCESS OPERATION**

**Definition: the authority operates to its defined roles, responsibilities, policies, procedures, protocols and codes, and monitors, reviews and amends these where necessary or appropriate.**

**Positive indicators:**

- access to relevant information, resources, advice and guidance is ensured and encouraged
- recruitment and appointments processes comply with relevant standards, e.g. those of the CRE, EOC and DC, and are monitored and reviewed



- key procedures and guidance, e.g. for declaring interests, claiming expenses, offer and/or receipt of hospitality are well designed, up to date, easy to understand and operate and are followed
- effective arrangements for keeping key information, e.g. declarations and registers of interests, up to date and accurate
- effective arrangements for reporting executive decisions, particularly in relation to individual decision making.
- appropriate risk assessment is undertaken to ensure that the ethical standards, procedures and processes members and staff are required to operate are relevant, appropriate and commensurate with the level of risk.

#### **Contra-indicators:**

- the authority has an 'overload' of unnecessarily complex, irrelevant or outdated practices and procedures
- evidence that poor design, lack of clarity or absence of advice and guidance have resulted in members and staff failing to follow set procedures
- absence of responsibility for and/or regular or programmed review of key processes and procedures to ensure they are up to date and relevant
- lines of accountability are unclear or regularly breached

#### **OBJECTIVITY AND SCRUTINY**

**Definition: recognition that situations of ethical ambiguity or conflict will occur and the ability of individuals to deal with these appropriately.**

#### **Positive indicators:**

- individuals have an awareness of and sensitivity to problematic issues and situations, together with the ability to recognise those which are relevant to their circumstances
- clear, well used arrangements for the management of declarations and registrations of interest

- clear arrangements/mechanisms for dealing with difficult ethical situations and a willingness to use appropriate measures to deal with them
- well defined and communicated arrangements for members and staff to obtain advice and guidance
- arrangements for regular scrutiny and review of general or specific ethical issues affecting the authority, its members and staff
- the overview and scrutiny arrangements provide for an ethical standards dimension
- the authority deals appropriately with requests for dispensation in respect of interests
- there is evidence of the ability of members and staff to exercise appropriate judgement in respect of ethical standards issues
- evidence of learning from experience: the use of feedback, adapting behaviour, systems and procedures and preventing reoccurrence

### **Contra-indicators**

- lack of common understanding, or evidence of widely differing views, within the authority regarding conflicts of interest
- inability or unwillingness on the part of members or staff to consider a situation objectively and realise how it may be perceived by the public, the media, individuals or organisations with which the council is involved
- evidence that members may be registering or declaring interests (or not doing so) inappropriately
- little or no indication that members or staff have the requisite skills or inclination to form appropriate judgements on ethical standards issues

# Standards management

## STANDARDS INTEGRATION

**Definition: making the promotion, maintenance and development of high standards of conduct integral to all the authority's operations.**

### Positive indicators:

- the promotion, maintenance and development of high standards of conduct form part of the authority's vision and strategy and are acknowledged as owned by members and staff
- ethical standards are 'designed-in' to the authority's constitution, decision-making and overview and scrutiny procedures.
- ethical standards are 'designed-in' to the authority's relationships with stakeholders, including outside bodies and partners for example in grant and contract conditions and partnership protocols
- external suppliers and service providers are required, in their dealings with the authority, to operate to public sector standards, e.g. not offering or providing inappropriate gifts or hospitality to members or staff

### Contra-indicators:

- evidence, for example from gifts and hospitality registers, or companies that deal with the authority, that external suppliers and service providers are unaware of public sector 'rules' and/or offer inappropriate gifts or hospitality to members or staff
- views on the part of members and officers that standards issues are separate from the mainstream activity of the authority
- evidence that standards issues are simply 'bolted-on' to aspects of the authority's systems and procedures, rather than being integral to them
- standards issues are perceived as being solely the responsibility of the standards committee and the monitoring officer and are, therefore, not owned by all members and staff
- members and staff take it for granted that high standards will be maintained without conscious effort

## **PEOPLE AND PRACTICE MANAGEMENT**

**Definition: An expectation that members and staff will operate to the highest standards of conduct, encouragement to do so, acknowledgement that, on occasions, some may fail to do so and a willingness to address this.**

### **Positive indicators:**

- active promotion of high standards of conduct.
- evidence of support to members and staff in developing and maintaining high standards.
- absence of 'blame culture'.
- availability of supportive and competent advice from line management.
- a confidential reporting mechanism which is widely known and understood and which has the confidence of members and staff.

### **Contra-indicators:**

- perception that the organisation ignores misconduct or fails to deal with it properly
- reluctance on the part of members or staff to take action in respect of misconduct because of lack of confidence in the system
- line managers and non specialist chief officers lack knowledge and expertise to advise and support staff in relation to standards issues
- absence or lack of awareness of confidential reporting mechanism

## **TRAINING AND DEVELOPMENT**

**Definition: Recognition of the need for, and commitment to, training and development in relation to ethical standards.**

### **Positive indicators:**

- an induction programme for both members and staff which incorporates ethical standards and seeks to integrate them into all aspects of induction

- the use of mentoring schemes, in particular for new members and staff
- compulsory training in certain matters, e.g. planning and overview and scrutiny
- evidence of training which tackles 'difficult' issues, such as conflicts of interest, handling demands for special treatment, relationships with contractors, or lobbying by third parties and gives participants the skills to deal with 'real-life' situations
- commitment to and opportunities for role related skills development, e.g. how to chair an area forum, as well as specific topic based training
- provision of training and guidance for key partners, suppliers, service providers and other stakeholders to build awareness of the authority's ethical ethos and practice.

#### **Contra-indicators:**

- absence of structured training and development and over-reliance on 'on the job' learning from colleagues
- perception that the 'public service ethos' is sufficient to maintain and develop high standards
- evidence of misunderstanding or lack of knowledge of the ethical 'rules' on the part of members and officers
- unwillingness on the part of members or staff to participate in training and development, particularly where this is based on 'long service knowledge' making training unnecessary

#### **PLANNING AND REVIEW**

**Definition: recognition of the need for systematic and regular review of the implementation and operation of the ethical framework in the authority and the ability to undertake this and demonstrate continuous improvement.**

#### **Positive indicators:**

- authority can demonstrate positive trends and specific progress in implementation of the ethical framework
- monitoring and review programme in place and operating

- evidence of plans for further improvement in key aspects

**Contra-indicators:**

- no planned monitoring and review programme - ad hoc reviews only taking place
- absence of mechanisms for measuring improvements
- absence of planned improvements or targets

# Appendix 1

## **List of key information**

(new//draft) constitutions/ current decision making framework (i.e. the committees and sub-committees)

procedural standing orders (old and new)

contracts standing orders

employees' code of conduct

members' code of conduct (current and new draft plus local variations) plus local guidance

confidential reporting procedure

terms of reference

scheme(s) of delegation

register of interests

recorded declaration of interests

members' induction process

officers' induction process

members' continuing development

members' training

officers' continuing development

officers' training

other council specific additional codes and protocols

background information, including the type of authority, number of members, political composition and political groups and the type of new/proposed structure

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