

Appendix 3

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28th October 2008

Dear Tim

Wider Issues Arising from Standards Committee Terms of Reference Consultation

I write further to your letter of 22nd October and our telephone conversation today. I am grateful for the time your Standards Committee has taken to consider the consultation on the Terms of Reference for Wiltshire Council's Standards Committee. I will reflect their proposals in my report to the Wiltshire County Council Standards Committee meeting on 10th November.

Your committee raised, through you in your letter of 22nd October, a range of other matters which, while relating to the wider remit of the Standards Committee, I will not be addressing in my report, but to which I think it would be helpful to respond. For the sake of clarity, I will quote your letter and respond to each point in turn.

The establishment of a new local authority is a unique opportunity to implement an ethical governance framework which both meets statutory obligations but also has regard to best practice. The Committee believes that exercise should be more wide ranging than just making adjustments to existing arrangements if it is to be truly effective.

Wiltshire County Council agrees entirely with this point of view. Although the consultation was confined to the committee's Terms of Reference, a series of developments is taking place to support and strengthen existing arrangements, which I will describe in further detail later in this letter.

While the Committee believes that the proposed terms adequately describe the role members would wish to see the Wiltshire Council standards committee carry out there is no information so far about how a pro-active approach would be adopted and the profile of the new committee raised or for example how it is proposed to give effect to, 'promoting and maintaining high standards of conduct by elected members, co-opted members and church and parent governor representatives and officers'.

The County Council already has a framework to support the active promotion and maintenance of ethical standards throughout the authority, and this framework is well embedded and accepted throughout the authority. For several years, the Standards Committee has worked closely with the Monitoring Officer, the Head of Legal and Democratic Services and the Corporate Standards Manager to identify and implement an annual programme of work for the committee. The programme of work has been supported by an action plan, and officers report regularly on progress to the Committee. Where appropriate, Committee members have formed sub-committees or joined officer-led project teams to implement agreed actions. This approach has been commended by external inspection.

The general commitment to the promotion of high standards is supplemented by the council's adoption of a Code of Ethical Governance, which was developed by the Standards Committee. A copy is attached. The Committee's work programme has been wide-ranging, and has covered, inter alia:

- the effectiveness of the staff code of conduct
- the council's whistle blowing arrangements
- equality and diversity
- internal controls
- anti-fraud and corruption policy
- the effectiveness of the council's constitution and being kept informed and involved in the preparations being made for a new constitution
- the council's complaints procedures, including forming panels to consider complaints brought at the final stage of the council's complaints procedure;
- complaints made to the Local Government Ombudsman
- ethical issues arising from the Annual Audit and Inspection letter
- the efficacy of the Internal Audit function

and many other areas of relevance to ethical governance. It has also commissioned independently, an Audit Commission inspection of the council's ethical health. The Corporate Standards Manager was seconded to the Standards Board for England to lead the project that developed the Ethical Governance Toolkit now offered by the Audit Commission and the IDeA, and the learning from this continues to inform practice in the council.

However, it is recognised that the new Council brings opportunities to build upon our existing strong foundations and commitments to probity. The County Council has created the post of Head of Governance to lead on internal governance for Wiltshire Council. The Head of Governance will be responsible for strategic developments in this area, and will also head the corporate complaints team, the standards team, and the corporate information team, thus recognising the clear links between customer complaints, openness and transparency, and accountability and probity.

Work is currently being undertaken by the County Council's Governance Assurance Group to develop a Code of Corporate Governance, underpinned by an evidence-based assurance and testing framework – the assurance framework. This covers all the areas currently regulated by the Use of Resources Probity Key Lines of Enquiry, and is to be extended to cover other areas. The Assurance Group is composed of senior officers. The Standards Committee and the Final Accounts and Audit Committee will receive regular reports on the implementation of the assurance framework.

The Committee is disappointed that so far there is no mention of how training and development for members of the new committee will be arranged. A significant amount of the work of the new committee is likely to involve hearings where a degree of expertise and consistency in the application of the role will be required which can only be achieved through a comprehensive programme of development work. The Committee believes that such a programme should be mandatory for members of the new committee before they participate in the assessment, review or hearing of complaints. Failure to do this would increase the risk of challenge to both the process and the outcome. This requirement should be made clear to all potential members of the new committee and no appointment should be proceeded with unless there was a

commitment both to participate in the training programme and to attend ordinary meetings regularly.

The training and development arrangements for members of the Standards Committee fall within the wider framework of learning and development that will have to take place for all members, whether elected or co-opted, of what will be an authority that is significantly different in terms of size and remit from any of the existing 5 councils in Wiltshire. It is agreed that members of the Standards Committee must be fully trained before they can undertake their statutory functions as Standards Committee members. For this reason, members will be appointed provisionally to posts on the committee well in advance of their formal appointment by the new full Council in late June 2009, and training will be arranged in the Spring of 2009. The existing person specification and job description for members of the Standards Committee, which remains valid and therefore will not change under the new Council, makes the commitments to meeting attendance and training clear, and this is also specifically discussed at interview stage.

The Committee believes that the proposed size of the new committee provides an appropriate balance between elected members, parish councillors and independent members and supports the proposal that no cabinet member should sit on it. However, it believes that deputies to the elected members should be appointed (who should participate in the same training arrangements) to ensure sufficient capacity to deal with the committee's business and the elected members should be appointed in a political balance which ensures that the main groups on Wiltshire Council are represented on the committee.

The Standards Board for England does not recommend the use of what in effect would be substitutes for elected members to the Standards Committee.

The Standards Committee is not a committee that requires to be politically balanced. While in practice elected members to the Wiltshire County Council committee are currently appointed on that basis, a formal commitment to such a policy would not be appropriate, since a commitment to high personal standards of probity by elected members is of vital importance to the credibility of a Standards Committee, and this must outweigh party political considerations were the authority ever to find itself in a situation where these two concerns were to conflict.

The new committee will have responsibility for parish matters but this appears to be implicit in the terms of reference (ToR) as currently drafted. The Committee believes that it would be appropriate to follow the Salisbury arrangement and add to the ToR, "The exercise of the Committee's functions in relation to the parish councils wholly or mainly in its area and the members of those parish councils".

Agreed. This will be a recommendation in my report to 10th November committee meeting.

Although it is proposed to increase the number of independent members the proposal is silent on how these members will be recruited and appointed. A suggestion has been made for the period from 1st April until the annual meeting of the new authority in June but it is not clear what will happen after that. It would be unfortunate if the experience gained by the district independent and parish members were lost, so initially (say for one or two years) these places on the new committee could be filled by members who have had that role on a district standards committee. Making use of existing experience would allow the new committee to become effective in its new role more swiftly than otherwise would be the case. It would also be cost effective. In appointing independent and parish members regard should be had to an appropriate geographical balance taking into account urban and rural members so that the new committee is and is seen to be representative of the whole county. Local knowledge will also be relevant when considering issues relating to individual parish councils and councillors. Should the number of place for independent and parish members be oversubscribed an appropriate selection process will need to be arranged.

Wiltshire County Council has always operated an open and competitive appointments process for independent members of the Standards Committee, and this will apply to candidates for Wiltshire Council's Standards Committee. The vacancies for independent members will be advertised in Wiltshire papers and in other publications. Those expressing an interest will be sent an application form, a job description and a person specification. Candidates will be shortlisted and interviews will be conducted, with success criteria to be determined by "fit" with the person specification and job description. Candidates who are able to demonstrate experience in receiving and determining complaints of breach of the Members' Code of Conduct will clearly have a distinct advantage. For logistical reasons, geographical location of candidates is not likely to be a significant determining factor in the selection process. However, we will seek to hold hearings locally to the complainant's home address. All existing independent members of the District Council Standards Committees will be sent a recruitment pack. We have always received high numbers of good quality applications for the post of independent members of Wiltshire County Council's Standards Committee, and we anticipate that we will not be able to appoint all the existing District Council independent members.

A letter will be sent to parish councils via their parish clerks inviting nominations for parish representatives. The same job description and person specification will be used and the same selection process will be used.

We anticipate beginning the recruitment process towards the end of 2008.

The proposal is silent on the skills and competencies necessary for the role of a standards committee member. Under local determination a more significant proportion of the work is likely to involve assessing and hearing complaints where specific skills are required in order to carry out the function effectively and avoid the possibility of appeal or challenge. In July the Committee adopted a competency framework based on work by the Judicial Studies Board. The Committee commends this framework for adoption by the new committee.

The Standards Committee has agreed a job description and person specification for Standards Committee members which unless changed by the Committee, will be used in the recruitment process. . . However, we would welcome the opportunity to consider Salisbury's competency framework as part of the work programme for the new committee, who may wish to revisit the existing WCC document after they have had some experience in post.

Although an officer code of conduct would form part of the terms and conditions of employment of the staff at Wiltshire Council it might be appropriate for the standards committee to maintain an overview of this area in the context of promoting high ethical standards.

This is already within the WCC Standards Committee's remit, and would continue to be in the new authority.

Salisbury's standards committee has a role in satisfying itself that the Independent Remuneration Panel has carried out its work properly. On reflection it believes that this role would be more appropriately carried out by the audit committee and therefore suggests that this arrangement be considered at Wiltshire Council. However, it believes that in establishing Wiltshire Council's members' allowances scheme, the levels of allowances for parish and independent members should be set which adequately recognise their role.

Agreed. This observation will be passed on to the officers with lead responsibility for drafting Wiltshire Council's constitution.

It is likely that the workload for the new committee will be significantly greater than that of the existing WCC committee not least because it will deal with 98 members of the new authority and issues arising from 253 parishes (including Salisbury city council). The Committee believes that proposed increase in the membership of the

new committee partly addresses this but there will also need to be an appropriate programme of meetings and level of officer support to discharge its functions effectively. The Committee noted that the district council functions passing to Wiltshire Council include development control which has been the subject of a significant proportion of the complaints dealt with by the Standards Board for England (SBE).

A new post – Head of Governance – has been created. This is essentially an extension of the existing post of Corporate Standards Manager who already provides support to Wiltshire County Council's pro-active approach to standards of conduct and probity. Two new full time posts will be created to support the governance work, and will report to the Head of Governance. These officers will conduct investigations and engage in work to promote the ethical framework, both inside the Council with members and officers, and by outreach work in the parishes. The level of officer support to be provided has been based on statistical information from the SBE regarding complaints handled by the district councils in Wiltshire, and the governance promotional activities work that will be undertaken by officers. These appointments and other officer infrastructure developments have been handled within the Internal Governance workstream of the One Council for Wiltshire programme. I have led this workstream, and the reporting and approvals process has been managed within the frameworks agreed by the Joint Implementation Team.

The Committee believes that a more pro-active role for the new committee will require greater officer support and provision to ensure that cases are dealt in an effective and timely fashion. The Committee understands that arrangements are being made to deal with investigations internally and the development of expertise in this area will greatly assist the conduct of investigations, assessments and hearings. However, these functions are resource intensive and care will need to be taken that any resource allocated is adequate. Some complaints may because of their nature need to be investigated externally so resources should be set aside for this purpose. For example two recent investigations under the auspices of this Committee incurred external legal fees of £5,000 per case.

Covered above. I would be grateful if you could provide more information about any requirements to conduct external investigations. I believe that we should have sufficient capacity and skills in-house – my intention is to require the Standards Officers to obtain the CIPFA Certificate in Investigative Practice, which is a very detailed course covering a wide range of possible scenarios. If you have examples of instances where this might not be sufficient, please give me a call to describe them to me so that I can ensure we have the right provision or contingency arrangements in place.

The Committee believes that in an area the size of Wiltshire geographical factors should be taken into account and that generally sub-committees dealing with a case should include members from that area and meet in that area. Where a hearing took place this would allow the subject member, the complainant and witnesses to attend without difficulty. Consideration should also be given to a peripatetic approach to meetings of the new committee.

In principle, for reasons of good customer care, this is agreed with regard to hearings, although members of the Committee must be willing to travel to all parts of the county. In practice, logistical considerations are likely to be very significant – although it may seem at first glance that the committee is fairly large, existing commitments of members and the timescales imposed by the statutory procedures mean that members will have to be flexible about which sub-committees they are appointed to for individual cases, and the composition of sub-committees is likely to be determined more by pragmatic requirements and availability than by geographical proximity to the complainant. We will always seek to hold substantive hearings in the part of the county in which the subject member and/or complainant reside.

The issue of the location of general committee meetings is not one that I can address here – it is being considered within the wider framework of the committee arrangements for Wiltshire

Council members as a whole, and must have regard to those arrangements when they are agreed.

The Committee noted that advice was being sought on the position between vesting day and the election of the members of Wiltshire Council. The Committee believes that so far as possible no hearings should be held during this period and that any inconvenience to subject members and complainants is outweighed by the desirability of properly appointed parish representatives being involved in the process. However, some mechanism should be found to ensure that there is some representation from former district councillors in case it is essential to consider a complaint.

We await a response from the DCLG on this and other questions regarding transitional arrangements for the Standards Committee. I am unable to comment further, because the matter is, to a great extent, not within the County Council's power to determine.

Traditionally elected members are appointed to committees and other bodies year on year at the annual meeting. However, in this case where it is necessary to build up a degree of experience and expertise greater continuity would assist the operation of the new committee. The Committee therefore suggests that elected members should be appointed for a period of two years.

This proposal will be put to the officers drafting the constitution for Wiltshire Council. It is for full council to determine.

Finally, may I thank your members for their detailed, helpful and considered response to the consultation. I hope that this letter has served to reassure them that although the consultation did not give background information about the infrastructure, approach to probity and working practices already in place in the County Council, nor about the detailed arrangements to support the requirements of the new authority, these either already exist and are thoroughly embedded in the County Council's culture and practice, or have been planned for in considerable detail as part of the ongoing transitional arrangements for the new authority.

I look forward to meeting representatives of your Standards Committee on the 10th November. If, in the meantime, you or they wish to have further clarification on the matters discussed in this letter, or on any other points relating to the wider ethical agenda, please do not hesitate to contact me.

Yours sincerely

Nina Wilton
Corporate Standards Manager

Code of Ethical Governance

Wiltshire County Council is committed to being an ethical authority. It will be transparent in its dealings, and fully accountable to its public. This means that principles of probity and good governance must underpin every aspect of the council's work. The council will ensure that systems and procedures are in place and in regular use across the entire authority, in order to deliver upon its commitment to the highest standards of probity and accountability.

The I&DeA has identified 9 characteristics of a fully effective ethical authority. They are:

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

In order for Wiltshire County Council to build on the District Audit's findings that the council has, overall, a robust ethical culture, Wiltshire County Council will adopt the following tools and indicators to improve and measure its ethical culture:

Evidence that the authority is open and has good access to information – this could be demonstrated by:

- The authority demonstrates a commitment to complying with the spirit of the access to information legislation, not relying extensively upon the exemptions available within the Act
- 100% of Freedom of Information and Data Protection requests responded to within the statutory deadlines, with few complaints to the Information Commissioner
- Staff surveys demonstrate an open approach to sharing information with the public
- Customer surveys demonstrate a high degree of satisfaction with the council's responsiveness to requests for information
- Underlying technical solutions to information management (electronic document management, customer relationship management) have been put in place, enabling swift and reliable access to information
- The council's web site receives high externally validated ratings for its content and interactive offerings, and meets the AA standard for accessibility
- Increased number of "hits" on the council's web-site, and increased duration of external visits to the site

The council's lines of accountability and responsibility are clear:

- Staff understand the lines of accountability that are in place – core part of induction programme, clear information on the intranet, all staff attend a council meeting as part of the induction process
- The scheme of delegation is clearly drafted, easily accessible, and well publicised
- Members of the public are informed, by means of information campaigns, the council's web site, information in the council's offices and contact points, what the lines of accountability are and how to access decision makers and make representations
- Clear audit trail for all decision making in place, and publicly available within legal constraints

Evidence that the corporate complaints procedure is understood and used by staff across the council – measures would be:

- Customer satisfaction with the procedures, measured by questionnaires, Peoples' Voice, user surveys, focus group work, MORI
- Increase in number of complaints logged on the Respond database, with a high proportion of complaints being dealt with at Stage 1 of the corporate complaints procedure
- Evidence that complaints training is in place as part of induction processes for all new staff, a core management competency, built into staff appraisal procedures, mystery shopping, senior managers' seminars.

Evidence that recommendations made by Ombudsman or Standards Committee are implemented and form opportunities for corporate learning by:

- Reports to Standards Committee demonstrate that recommendations have been implemented
- Reports to CMB demonstrate that where appropriate, wider lessons are learned from departmental complaints
- Evidence of changes to operating procedures demonstrates that learning and appropriate change/improvement has taken place as a result of complaints.

Evidence that the whistle-blowing procedure is widely understood and used:

- Creation of a central database and procedures to record and investigate all incidences of whistleblowing and monitor outcomes, to ensure consistency of approach and fair treatment of whistle blowers
- Mystery shopping to test staff awareness of the policy
- Active promotion of the policy in staff magazine and team briefings
- All partner agency staff aware of whistle blowing procedure, and whistleblowing policy built into external contracts

Evidence that all elected members and co-opted members are aware of their responsibilities under the Code of Conduct for Members:

- Few complaints of breach of Code of Conduct upheld;
- Code is publicised in local press and prominently on the council's web site, with information about how to make a complaint about an alleged breach;
- Central register held confirming that all members have received training on the application of the Code
- Training available as required, and after all council elections

Equality and diversity strategy in place and functioning effectively:

- Reliable records of numbers of staff employed, including gender, ethnic origin, disability and other indicators – evidence that numbers are

representative of the population of the county, and that promotion and training opportunities are available to those groups that might have difficulty in obtaining appropriate employment, training and promotion

- Respond database demonstrates that racist and homophobic incidents are recorded and responded to appropriately
- Departmental plans demonstrate clear, measurable action planning in relation to equality and diversity and to social inclusion issues

Evidence that the Staff Code of Conduct is clearly articulated to and understood by all staff;

- Central database of disciplinary investigations and outcomes, including instances of breaches of e-mail and internet codes of use
- Code of conduct forms compulsory part of induction processes
- Code of conduct forms part of management induction
- Evidence of understanding of code of conduct built into staff appraisals and recruitment and selection procedures
- Articles relating to conduct and ethical matters appear in staff magazine and team briefings, including FAQ's and staff questions

Staff welfare policies in place and being used:

- Staff aware of appropriate response and recourse in the event of threats/bullying by colleagues at any level of seniority, or by customers;
- Evidence of take up of staff counselling service;
- Training for managers includes staff welfare issues
- Evidence of take up of flexible working and job share opportunities
- Few Employment Tribunals find against council – database of grievances and ET's kept, with outcomes to ensure fairness for all staff involved
- Appraisal and personal development plans in place and used for all staff, and built into departmental PI's
- Staff welfare a core management competency, with necessary training available

Anti-fraud and corruption policy in place and publicised:

- Mystery shopping
- Publicity campaign conducted in local press
- Partner agencies aware of the new policy
- Policy promoted in staff magazine and team briefings, with FAQ's and staff questions
- All members have received training on the policy

Procedures for declaring interests, claiming expenses and offers/receipt of gifts and hospitality received and understood:

- Logs kept of training received by members and staff
- Evidence that registers are kept in each department and by Member & Democratic Services (for members), and that the registers both of interests and of gifts and hospitality are used
- Articles in staff magazine and team briefing about registering gifts and hospitality
- All contractors and potential contractors aware of council's position on offers of gifts/hospitality, with a clear statement on council's website
- Spot checks in operation

Evidence that the council seeks to build a bond of trust between itself and the community it serves by:

- regular officer and member attendance at community meetings
- increased public attendance at community meetings and council meetings
- surveys demonstrate an increase in public trust and confidence in the council
- the existence of detailed, achievable community plans based on needs expressed by the communities themselves, with evidenced results based on community priorities
- increase in voter turn out at local elections