



AUDIT AND STANDARDS COMMITTEE

MONDAY 3 MARCH 2008 AT 2.00 PM
IN CABINET ROOM C, COUNTY HALL, PRESTON

NB If you have any queries regarding the Agenda papers or require any further information, please contact Stephen Pickup on 01772 533420.

AGENDA

PART I (OPEN TO PRESS AND PUBLIC)

1 APOLOGIES FOR ABSENCE

2 DISCLOSURE OF MEMBERS' INTERESTS

Members are asked to consider any personal/prejudicial interests they may have to disclose to the meeting in relation to any matters under consideration on the Agenda in accordance with the law, the Authority's Standing Orders and the Member Code of Conduct.

3 MINUTES OF THE MEETING HELD ON THE 26 NOVEMBER 2007

Copy enclosed for confirmation at item 3.

4 MATTERS ARISING

There are no matters arising which are not dealt with elsewhere on the Agenda.

ITEMS FOR DECISION

5 INTERNAL AUDIT PLAN 2008/09

The Internal Audit Plan for 2008/09 is presented at item 5. **(Item 5 to follow.)**

6 APPOINTMENT OF INDEPENDENT LAY MEMBER TO THE COMMITTEE

A report on the arrangements for the appointment of an Independent Lay Member to the Committee is attached at Item 6. **(Item 6 to follow.)**

ITEMS FOR INFORMATION

7 INTERNAL AUDIT MONITORING REPORT

The Internal Audit monitoring report, for the period 1 April 2007 to the 31 January 2008 is attached at item 7.

8 EXTERNAL AUDIT POSITION STATEMENT

The Audit Commission's position statement is attached at item 8.

9 REVIEW OF PROCEDURE – GENERIC LOGIN TO THE CUSTODY IT SYSTEM

A report on the Constabulary review of the current procedures for generic log-in to the custody IT system is attached at item 9.

10 LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH ACT 2007

A report providing details on the provisions of the above act which relate to ethical standards is attached at Item 10.

11 LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH ACT 2007 – UPDATE REGARDING CONDUCT WHICH HAS GIVEN RISE TO A CRIMINAL CONVICTION

A report considering the application of the Code of Conduct to Members in cases where such conduct has given rise to a criminal conviction is attached at Item 11.

12 LOCAL ASSESSMENT – TRAINING EXERCISE

A report providing details of a local assessment training exercise is attached at Item 12.

13 ADJUDICATION PANEL FOR ENGLAND

A report advising the Committee on the work of the Adjudication Panel for England is attached at Item 13.

14 CODE OF CONDUCT ISSUES

The Monitoring Officer will provide a verbal update of any local issues arising since the last meeting.

15 PENDING STANDARDS BOARD INVESTIGATIONS

The Monitoring Officer will update the Committee on any developments since the last meeting.

(NOTE: this may involve the disclosure of exempt information, in which case the Committee should consider excluding the press and public.)

16 URGENT BUSINESS

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

17 DATE OF NEXT MEETING

The next meeting of the Committee is scheduled to be held at 2.00pm on Monday 2 June, 2008 at County Hall, Preston.

Miranda Carruthers-Watt
CHIEF EXECUTIVE



AUDIT & STANDARDS COMMITTEE

MONDAY 26 NOVEMBER 2007
AT 2.00PM IN CABINET ROOM 'C', AT COUNTY HALL, PRESTON

MINUTES

PRESENT:-

Mrs D Dugdale - Chairman

Miss S Afzal
County Councillor C Grunshaw
County Councillor A P Jones
Mr I Master
Mr D Soper
Mr D Winthrop, JP

IN ATTENDANCE

Mr J Edney	Interim Treasurer, Lancashire Police Authority
Mr S Pickup	Administrator, Chief Executive's Office, Lancashire Police Authority
Mr A Brown	Head of Management Accounts, Lancashire Constabulary
Mr M Thomas	Audit Commission
Mr J Cornett	Audit Commission
Mrs R Tanner	Principal Auditor, Internal Audit
Mr C Clark	Senior Auditor, Internal Audit

APOLOGIES FOR ABSENCE

Apologies for absence were presented on behalf of Mrs G Stanley, JP and Mrs R Lowry, the Head of Internal Audit.

MINUTES OF THE MEETING HELD ON THE 17TH SEPTEMBER 2007

24/07 RESOLVED:- That the Minutes of the meeting held on the 17th September 2007 be confirmed and signed by the Chair.

THE FUTURE PROVISION OF INTERNAL AUDIT SERVICES

The representatives of Lancashire Audit Services withdrew from the meeting during consideration of this item.

The Committee received a report regarding the extension of the current contract with Lancashire Audit Services for the provision of the Authority's Internal Audit service for a further two years from the 1st April 2008.

The Interim Treasurer reported that, when the contract had originally been entered into, the Authority's Chief Executive had been provided with delegated power to agree a further two year extension. Given the satisfactory performance, value for money and effectiveness of Lancashire Audit Services, the Chief Executive proposed to exercise this power, subject to the views of the Committee.

25/07 RESOLVED: - That the contract for internal audit services be extended for two years from 1st April 2008 within the existing budget, subject to satisfactory terms and the focus of audit coverage being agreed as soon as possible with Lancashire Audit Services by the Interim Treasurer and Chief Executive, in consultation with the Constabulary's Director of Resources.

ANNUAL AUDIT LETTER

The Annual Audit Letter for 2006/07 was presented for the Committee's consideration.

(A copy of the Letter is set out in the Minute Book.)

The letter summarised for Members the more important matters arising from the Audit for 2006/07 financial year and had been discussed and agreed with the Chief Executive, Interim Treasurer and the Constabulary's Director of Resources.

Under Regulation 19 of the Accounts and Audit Regulations 2003, the Authority was now required to publish the Annual Audit Letter and to make copies available for purchase by any person on payment of a reasonable sum. The 2005/06 Annual Audit Letter had been publicised by including a copy of the letter with the Minutes of the Meeting and including it on the Authority's website and it was suggested that this procedure was followed again.

26/07 RESOLVED:- That it be agreed:-

1. the Annual Audit Letter be noted;
2. the Police Authority be recommended to effect the publication of the Annual Audit Letter through the Authority's website and by the inclusion of the Letter with the Minutes of the meeting.

PRIVATE ACCESS TO THE EXTERNAL AND INTERNAL AUDITORS BY MEMBERS OF THE COMMITTEE

The Committee considered the arrangements for Members of the Committee to meet informally with the external auditor (the District Auditor or their representative) and the Head of Internal Audit, or her representative, without any other officers or members of the Authority or Constabulary in attendance.

27/07 RESOLVED:- The Committee agreed that a private meeting between Members of the Committee, the External Auditor (or their representative) and the Head of Internal Audit (or their

representative) should be scheduled to take place after the Committee's meeting in March of each year.

POLICE USE OF RESOURCES EVALUATION – SCORE FEEDBACK

The Committee considered the External Auditor's report setting out the results of the 2006/07 review of the Authority's Police Use of Resources Evaluation (PURE).

The Interim Treasurer indicated that the Authority had achieved a grade of 'performing well' across four of the five assessment themes, these were: financial reporting, financial management, financial standing and Internal Control. These scores were consistent with those achieved in 2005/06, although the External Auditor indicated that the 2006/07 assessment had been more stringent, so the scores attained represented an improvement in real terms. In respect of the remaining assessment theme of value for money, the Authority had improved its score in 2006/07, achieving the highest grade of 'performing strongly'.

An action plan, setting out the Authority's proposed response to the recommendations contained in the evaluation, was appended to the report. Members suggested that further information was required to enable the Authority to make judgements about the cost and benefits of achieving the highest scores on the PURE assessment. In addition, concern was expressed that, because the Audit Commission developed the assessment framework each year to promote continuous improvement, the Authority could undertake additional work without actually improving its scores. It was reported that the Chief Executive had agreed to undertake a self assessment prior to PURE 2007/08 which would help to assess the level of resources required to achieve a visible improvement in the Authority's results. A report would also be presented to Resources Committee in December on proposed changes to PURE and the introduction of Comprehensive Area Assessment (CAA). This report would include recommendations for a Member panel to take PURE forward and an informal Seminar on CAA which would form the first part of Members' training on such issues.

In considering the detail of the action plan, only recommendation 7, regarding the establishment of key financial health indicators, had not been agreed because it was considered that a culture of financial challenge was already embedded. In order for the Authority to review the adequacy of the current culture, Members requested that a report be presented to a future meeting of the Resources Committee setting out the indicators and policies currently in place to facilitate financial challenge.

A member of the Committee requested clarification in respect of recommendation 2, which suggested that consultation should take place with stakeholders on the production of the Authority's Annual Report. The External Auditors proposed that, before producing the document, the Authority should consult with partners on particular areas they wished to see covered in the report. The Member concerned indicated that the Annual Report was a statutory document designed specifically for the purpose of assessing performance against the Annual Policing Plan.

28/07 RESOLVED:-

- (1) That the results of the Police Use of Resources Evaluation be noted.
- (2) That a report be presented to the Authority's Resources Committee setting out the indicators and policies currently in place to facilitate financial challenge.

INTERIM REPORT AND FINAL ACCOUNTS MEMORANDUM

The External Auditors interim report and final accounts memorandum was presented to the Committee.

In relation to recommendation 1, the Committee asked to be kept informed of the outcome of the Constabulary's review of the current procedures for generic log-in to the custody IT system.

Members also requested that the action plan for this report be amended by the External Auditor to include priority levels for each of the recommendations from this report.

29/07 RESOLVED:-

1. That the report be noted.
2. That the outcome of Constabulary's review of the current procedures for generic log-in to the custody IT system be reported to the Committee's next meeting in March 2008.

AUDIT COMMISSION POSITION STATEMENT

The Committee received a report summarising the current position on external audit work as at 16th November 2007.

30/07 RESOLVED:- That the report be noted.

INTERNAL AUDIT MONITORING REPORT 2007/08

The Committee considered the Internal Audit Monitoring Report for the period from 1 April to 31 October 2007.

Members were informed that, at the request of the Authority's Chief Executive, Internal Audit had started a review of the Authority's IT data network arrangements.

The Interim Treasurer reported that the remaining balance of days for operational reviews had not yet been allocated. However, several proposals had been put forward for possible areas for internal audit review and these were currently being discussed with the Constabulary.

31/07 RESOLVED:- That the report be noted.

DATE OF NEXT MEETING

32/07 RESOLVED:- That it be noted that the next meeting of the Committee is scheduled be held at 2:00pm on Monday 3 March 2008, at County Hall, Preston. It was also agreed that this meeting should be followed by the first informal meeting between Members of the Committee and the Authority's Auditors.

Miranda Carruthers-Watt
CHIEF EXECUTIVE



AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

INTERNAL AUDIT MONITORING REPORT 2007/08 – PERIOD ENDED 31 JANUARY 2008

(Appendix 'A' refers)

Issue for Consideration

Matters arising from the Internal Audit Monitoring Report for the period from 1 April 2007 to 31 January 2008.

Information

The Terms of Reference for this Committee include the duty to consider internal audit's major findings and management's responses to them.

The report at Appendix 'A' provides a brief summary of internal audit activity during the first ten months of the 2007/08 financial year.

Decision Required

The Committee is asked to note the report.

Background Papers

Internal Audit Plan 2007/2008 – Audit & Standards Committee 5 March 2007

Report Author

Name: Chris Clark
Rank: Senior Auditor
Organisation: Lancashire County Council ☎ 01772 536038

APPENDIX A

Lancashire Police Authority

Internal Audit Service

Monitoring report for the period ended 31st January 2008

1 Purpose of this report

1.1 The Annual Audit Plan for 2007/08 was approved by the Audit and Standards Committee on 5th March 2007. The plan reflects the approach agreed during the procurement and tendering process which appointed Lancashire Audit Service as the Police Authority's internal auditors for the period 2005/6-2007/8. This report details the progress to date in undertaking the agreed coverage, and highlights any significant issues identified from the audit work performed in this period.

1.2 This report covers the period 1st April 2007 to 31st January 2008.

Acknowledgements

1.3 We are grateful for the assistance that has been provided to us by all the Police Authority and Constabulary staff contacted in the course of our work.

2 Key issues and themes arising during the period

2.1 From the work completed to date no key issues have been identified that would have implications for the Police Authority's internal control environment as a whole.

2.2 We have started work on a number of other reviews, but we are not yet at the stage of forming an opinion on their adequacy or effectiveness.

3 Internal audit work undertaken

Internal audit plan 2007/08

3.1 Work carried out during this period was mainly in accordance with the agreed audit plan. In addition to the planned reviews we have also undertaken work on the National Fraud Initiative (NFI), a national data-matching exercise run by the Audit Commission. Details of the progress to date including assurance provided and key issues identified for each of the areas completed to date is set out in the 'Summary of findings and assurance' table which forms part of Section 4. This shows that 157 days have been spent in the ten months since the start of the financial year to deliver the audit plan. This equates to 68% of the total audit activity of 230 days planned for the year.

Core financial systems

3.2 Final reports have been issued covering insurance, banking/treasury management, accounts receivable (debtors) and pensions systems. There were no issues arising from the insurance, banking/treasury management and pensions reviews that required remedial management action.

3.3 The accounts receivable system has adequate controls to fully achieve its control objectives. However, at the time of the audit, they were not operating effectively as intended. An action plan to address the identified issues (detailed in Section 4 below) has been agreed with management, as reported to this Committee on the 26 November 2007.

- 3.4 Fieldwork is ongoing in respect of the accounts payable (creditors), expenses, general ledger and payroll reviews and we intend to complete these reviews before the end of the financial year.

General Computer Controls

- 3.5 We have issued final reports in respect of the reviews of the standards and security of the Police Authority and Constabulary websites.
- 3.6 We concluded that the controls in place over the Constabulary website are adequate and effective. We did however make recommendations to further improve controls over the access to the content management system and the controls in place to prevent, detect, monitor, correct and report website security incidents.
- 3.7 Our review of the Authority website focused on following up the recommendations made during the 2005/06 audit to determine whether they had been implemented. We noted that there has been a positive response to the recommendations. Since the 2005/06 audit the Authority has appointed a new website hosting provider and we have agreed a recommendation with management to ensure that there is an adequate contract in place between the Authority and the new website hosting provider.

Operational reviews

- 3.8 We had a meeting with the Constabulary's Administration Manager in order to determine the Constabulary's progress in implementing the Management of Police Information (MoPI) guidance and to consider the scope of the information management audit review. There is to be a twice-yearly peer review of the Constabulary's progress towards implementing the IMPACT¹ programme, incorporating the MoPI guidance. In our opinion an internal audit review of this area would duplicate the peer review process and we are therefore proposing not to undertake any further work in this area this year.
- 3.9 We have had a meeting with the Chief Executive and Treasurer of the Police Authority to determine the best way forward for identifying operational areas for internal audit review. Following this the Chief Executive and the Treasurer are due to meet with Constabulary staff to ascertain an overall picture of the internal and external sources of assurance and we can gain a better understanding of how internal audit resources can be most effectively used in future.
- 3.10 We are following up the audit of Partnerships undertaken in 2005/06 to determine whether the agreed recommendations have been implemented. The Constabulary have put in place an internal action plan which responds positively to the recommendations raised in the audit and we are undertaking further work to determine the effectiveness of the arrangements that have been put in place.

¹ IMPACT: Home Office programme designed to improve the way in which forces manage and share information

Resource input

3.11 The staff resource input for the ten months to 31 January 2008 is as follows:

	Audit plan Days	Target %	Actual %
Head of Internal Audit	3	3	2
Principal Auditor	16	12-20	10
Senior Auditor (including IT)	40	25-35	25
Audit team members (including IT)	99	50-55	63
Total	158		

3.12 Given the decision not to undertake any further work on information management, and that there is an allocation of thirty days remaining which has not yet been assigned to specific audit reviews, we expect that the full 230 days planned audit input will not be achieved. The expected shortfall on the operational reviews has also resulted in a smaller proportion of time being spent by the Head of Internal Audit and Principal Auditor than expected as the nature of these reviews would have demanded more senior input than the key financial systems reviews.

4 Summary of findings

Overall summary and assurance provided

- 4.1 We have set out in the table on the following pages a brief summary of each review undertaken during the period and the areas to be covered in the remainder of the year. This sets out the planned and actual days we have spent on each review, the variance between the days reported, and a summary of the assurance we have been able to provide in relation to each system or operational area of your business where work has been finalised. The key issues identified encapsulate the significant issues and areas where key recommendations were made. They reflect the findings at the time the work was carried out.
- 4.2 We have distilled the assurance into an assessment of the adequacy of each system, and its effectiveness in operation.
- 4.3 **System adequacy:** We have defined a system as adequate if its design enables it to achieve its core control objectives which, if operating as intended, serve to manage its inherent risks.
- 4.4 **System effectiveness:** We have defined a system as operating effectively if, after testing or other supporting evidence has been found, it is operating as intended.
-

Summary of our findings and assurance

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
Core financial systems						
Insurance	5	5	-	✓	✓	The final report was issued in September. There were no issues requiring remedial management action.
				The controls are adequately designed and effectively operated.		
Banking/treasury management	10	10	-	✓	✓	The final report was issued in September. There were no issues requiring remedial management action.
				The controls are adequately designed and effectively operated.		
Accounts receivable	15	13	(2)	✓	x	The final report was issued in September. The monitoring of outstanding debts was not being carried out effectively. Some of the recommendations arising from the previous audit had not been undertaken, including a review of the access arrangements and a review of the debt management policy. We acknowledge that workload pressures, caused by the implementation of Oracle Financials and a loss of key staff, have resulted in the prioritisation of tasks by Headquarters staff. We have agreed an action plan with management to address these issues.
				The controls are adequately designed, however at the time of the audit they were not acting effectively as intended.		

Lancashire Audit Service: Lancashire Police Authority
 Internal Audit monitoring report for the period ended 31st January 2008

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
Pensions	10	12	2	✓	✓	The final report was issued in December. There were no issues requiring remedial management action.
				The controls are adequately designed and effectively operated.		
Accounts payable	10	12	2	-	-	We are nearing completion of the fieldwork for this review and we will produce a draft report imminently.
Expenses	15	8	(7)	-	-	Fieldwork for this review was started in January and is currently ongoing.
Main Accounting	10	7	(3)	-	-	Fieldwork for this review was started in January and is currently ongoing.
Payroll	20	15	(5)	-	-	We are nearing completion of the fieldwork for this review and we will produce a draft report imminently.
Oracle Financials	10	7	(3)	-	-	We have undertaken work which is being used to inform our audit approach and the testing programme applied to the accounts payable and main accounting reviews.
Online expenses	10	-	(10)	-	-	This provision of days is for any ongoing advice and assistance throughout the year in relation to the implementation of the online expenses system.

Lancashire Audit Service: Lancashire Police Authority
 Internal Audit monitoring report for the period ended 31st January 2008

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
National Fraud Initiative	-	6	6	N/A	N/A	The Audit Commission undertake a national data-matching exercise every two years based upon information submitted by public sector organisations in order to identify cases of fraud. We have evaluated the results of this exercise and followed up cases where appropriate. The exercise did not reveal any material issues of concern.
Operational reviews						
Information management (Richard review)	20	2	(18)	-	-	<p>We have met with Constabulary staff and updated our knowledge of progress in implementing the Management of Police Information (MoPI) guidance, in particular the requirements in relation to the review, retention and deletion of police information.</p> <p>Under the national IMPACT programme the Constabulary will be subject to twice-yearly reviews of this area. As a result, we do not feel it is appropriate to undertake an audit of this area in 2007/08.</p>

Lancashire Audit Service: Lancashire Police Authority
 Internal Audit monitoring report for the period ended 31st January 2008

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
Police Authority IT Network Arrangements	10	2	(8)	-	-	<p>Following discussions with the Chief Executive and Treasurer of the Police Authority we have started a review of the Police Authority's current data network arrangements, to determine whether they provide adequate and effective controls given the nature of the information handled by the network. In particular, we are considering the following issues:</p> <ul style="list-style-type: none"> • the IT services provided by LCC to LPA and the appropriateness of the security arrangements, taking into consideration the nature of the information handled by the Police Authority IT network; • the arrangements for remote access to IT networks; • any potential issues due to an inability to share (securely where appropriate) information and applications with the Constabulary and vice versa; • the advantages, disadvantages, risks (including security) and costs associated with staying on the LCC network or transferring to the Constabulary's network. <p>We are going to meet the Treasurer of the Police Authority shortly, in order to further progress this review.</p>

Lancashire Audit Service: Lancashire Police Authority
 Internal Audit monitoring report for the period ended 31st January 2008

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
Additional operational areas	30	-	(30)	-	-	No areas have been identified to date.
Specialist areas						
General Computer Controls	10	12	2	✓	✓	<p>We have undertaken reviews of the standards and security applied to the Lancashire Constabulary and Police Authority websites.</p> <p>The final report on the Constabulary website was issued in December 2007. We concluded that the controls in place were adequate and effective. We did however make recommendations to further improve controls over the access to the content management system and the controls in place to prevent, detect, monitor, correct and report website security incidents.</p> <p>The final report on the Authority website was issued in December 2007. Our review focused on following up the recommendations made during the 2005/06 audit to determine whether they had been implemented. We noted that there has been a positive response to the recommendations.</p>
				The controls are adequately designed and effectively operated.		

Lancashire Audit Service: Lancashire Police Authority
 Internal Audit monitoring report for the period ended 31st January 2008

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
Completion of 2006/07 audits carried forward						
Grant arrangements	0	13	13	✓	✓	The findings of these reports were reported at the September committee meeting.
Payroll				The controls are adequately designed and effectively operated.		
Other areas						
Follow up reviews	5	3	(2)	-	-	<p>We are following up the audit of Partnerships undertaken in 2005/06 to determine the progress made in implementing the agreed recommendations.</p> <p>We are following up recommendations arising from the 2006/07 core financial systems reviews as part of the 2007/08 audits of these areas.</p>
Attendance at meetings and liaison	10	8	(2)	-	-	This time covers attendance at Audit Committee as well as quarterly up date meetings with the Chief Executive, Treasurer, and Director of Resources.
Central reporting (annual and periodic progress)	10	8	(2)	-	-	This allocation covers the time required for the Committee reporting process as well as preparing the monitoring reports for the quarterly meetings with the Chief Executive, Treasurer, and Director of Resources.

Lancashire Audit Service: Lancashire Police Authority
 Internal Audit monitoring report for the period ended 31st January 2008

Review area	Audit days			Assurance		Key issues/Comments
	Planned	Actual	Variation	Adequacy	Effectiveness	
General management activities	10	8	(2)	-	-	This relates to the day to day management of the Police Authority audit plan, including liaison with the Continuous Improvement and Threat Management Group and the Constabulary's Corporate Development section to identify operational areas for internal audit review.
Liaison with Audit Commission and HMIC	5	2	(3)	-	-	This relates to quarterly liaison meetings with the Audit Commission, and joint meetings with other assurance providers twice yearly.
Liaison with Professional Standards	0	1	1	-	-	We have held an initial meeting with the Constabulary's Head of Professional Standards, and agreed that the Protocol for Reporting Financial Irregularities, which ensures that such irregularities are reported to the Police Authority, should be re-launched. We have also agreed to hold twice-yearly liaison meetings with Professional Standards.
Contingency	5	4	(1)	-	-	This allocation covers ad hoc advice and assistance to the Police Authority and Constabulary. Time to date relates to advice regarding the implementation of the Oracle Financials system and providing an audit certificate in relation to the Drug Intervention Programme grant monies spent by Western Division in 2006/07.
Total Days	230	158	(72)			



AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

EXTERNAL AUDIT POSITION STATEMENT

(Appendix A refers)

Issue for Consideration

A progress report on the Audit Commission's position against the 2007/08 Audit Plan.

Information

The Audit Plan was agreed in March 2007 and sets out the external audit work to be carried out in the 2007/08 year. Attached at appendix A is a summary setting out the detail of the work agreed with the Police Authority and to indicate the current position as at 15 February 2008.

Decision Required

The Committee is asked to note the report.

Background Papers

None.

Report Author

Name: Colin Smith
Organisation: Audit Commission  0844 798 7058

Date

Last saved: 18/02/2008 09:51:00

DRAFT

Audit update

Lancashire Police Authority

Audit 2007/08

- Audit Commission descriptor to be inserted by Publishing-

Document Control

Author Colin Smith

Filename March 08 Progress report - LPA

Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

Copies of this report

If you require further copies of this report, or a copy in large print, in Braille, on tape, or in a language other than English, please call 0845 056 0566.

Contents

Introduction

4

Introduction

- 1 The Audit Plan was agreed in March 2007 and sets out the external audit work to be carried out in the 2007/08 year . The purpose of this summary is to set out the detail of the work agreed with the Police Authority and to indicate the current position as at 15 February 2008.

Table 1 Position statement

Audit work	Work to be carried out	Date and nature of the output	Latest position
Planning and management	Initial planning Feb to Apr 2008. Update planning on an ongoing basis.	Audit plan agreed March 2007.	Audit plan agreed March 2007. Ongoing discussions with officers.
	Police Use of Resources and Value for Money conclusion.	Audit Commission presentation on the new CAA (Corporate Area Assessment) and revised format of Use of Resources with effect from 2008-09 held for authority officers and members on 29 January 2008. Timescale for completion of 2007-08 Use of Resources assessment Apr - September 2008. Audit report following national moderation.	Ongoing discussions with officers- final KLOE's due to be issued shortly which will enable Authority to commence preparation of self assessment

Audit work	Work to be carried out	Date and nature of the output	Latest position
Financial Statements	<p>We will carry out our audit of the 2007/08 financial statements and comply with the International Standards on Auditing UK and Ireland (ISA UKIs).</p> <p>We are also required to review whether the Annual Governance Statement (which replaces the statement on internal control) has been presented in accordance with relevant requirements and to report if it does not meet these requirements. The Governance statement should include reference to all significant corporate systems and controls spanning all the Authority's activities</p>	Audit Opinion by 30 September	Final Accounts workshop held on 4th February- attended by Police Authority accountants.
Summary of opinion risks	We will continue to work with key officers to ensure the 2007-08 accounts are produced on time and supported by appropriate working papers.	March - June 2008.	Final accounts closedown meeting to be held in March
Financial Systems	We will continue to work with Internal Audit to ensure appropriate work is carried out on all material systems that provide figures in the financial statements, so that we can continue	Ongoing	Update meeting to be arranged

Audit work	Work to be carried out	Date and nature of the output	Latest position
	to place reliance on Internal Audit.		
Workforce Modernisation Agenda	We will undertake a risk assessment of the progress made in implementing this agenda to identify what further work is needed	Summary report	Work to be completed April - June 2008
Community Safety	Community safety work will focus on areas where Government Office has identified problems with CDRPs achieving their targets	Summary report	Work to be completed April - June 2008

DRAFT

AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

REVIEW OF PROCEDURES – GENERIC LOG-IN TO CUSTODY IT SYSTEMS

Issue for Consideration

A review of Constabulary procedures for logging in to Custody IT systems.

Information

The recommendation made in the Audit Commission's Interim Report and Final Accounts Memorandum was that the Constabulary review its processes to ensure custody staff have individual network log-in passwords and that the network is configured to require these passwords to be changed on a regular basis.

Following review, it has been concluded that it would not be practical for operational efficiency and effectiveness to change from the current practice of using a generic password to log-in to the custody IT system. A technology solution, in the form of a 'swipe card' to log-in, is considered to be a potential way forward but this would be some time in the future, and there would be financial implications. It would be developed to link to other custody functions such as cell visits, with keypads outside the cell doors which when swiped would populate custody records to avoid questions on the integrity of timing of visits.

Decision Required

The Committee is asked to note the report.

Background Papers

None.

Report Author

Name: Tim Ewen
Rank: Head of Criminal Justice
Organisation: Lancashire Constabulary ☎ 01772 412136

AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH ACT 2007

(Appendices A and B refer)

Issue for Consideration

Details on the provisions of the Local Government & Public Involvement In Health Act 2007 which relate to Ethical Standards. The report also provides a checklist of issues to consider in the lead up to a local assessment framework.

Information

The Local Government and Public Involvement in Health Act 2007 was passed by parliament on 4 October 2007 when it received royal assent. The Act contains within it provisions relating to Ethical Standards. A copy of the explanatory notes from the Act relating to the Ethical Standards provisions are set out at Appendix A.

The sections give effect to the Government's proposals for the reform of the regime relating to standards of conduct for local government.

The proposals are aimed at devolving most decision-making on the conduct regime for local authority members to local authorities, with a revised, regulatory role provided for the Standards Board. The measures provide for local standards committees to make initial assessments of misconduct allegations and for review arrangements for those assessments which lead to no action being taken. The provisions also give powers for the Standards Board to suspend a standards committee's role in making initial assessments of allegations and for the Board to issue guidance to standards committees and ethical standards officers.

In addition, provision is made for decisions in respect of local authority posts subject to political restrictions to be undertaken by standards committees rather than, as now, by the Independent Adjudicator and to enable the Secretary of State to issue an order to allow the maximum pay of political assistants to be linked to a point on a relevant pay scale specified by the order.

There are obviously a number of implications and actions to be addressed as a result of the Act. In order to ensure that all aspects within the Act are picked up and monitored a checklist has been prepared and is attached at Appendix B. It should be noted that at the time of writing this report, the regulations and guidance are still awaited and therefore there are gaps within the checklist

where these are being awaited. During the lead up to the implementation of local assessment framework the checklist will evolve and be brought back to the Committee.

The Committee should note that the Department for Communities and Local Government is currently in the process of consulting on the Orders and Regulations relating to the Conduct of Local Authority Members. The closing date for comments was 15 February. The regulations and guidance will obviously not be received before then. The Association of Police Authorities response to this consultation exercise is currently awaited and a copy will be forwarded to Members of the Committee in advance of the meeting.

The Committee is also asked to note that there will be potential resource implications on staff of the governance team in terms of the administration of the new local assessment framework.

Decisions Required

The Committee is asked to note the report.

Background Papers

Local Government and Public Involvement in Health Act 2007

Report Author

Name: Angela Harrison
Rank: Monitoring Officer
Organisation: Lancashire Police Authority ☎ 01772 906603

**LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT
2007**

PART 10: ETHICAL STANDARDS

Introduction

435. These sections give effect to the Government's proposals for the reform of the regime relating to standards of conduct for local government. Proposals for amendments to the regime were included in the Government's discussion paper Standards of Conduct in English Local Government: The Future, issued in December 2005. Decisions on action to be taken were then announced in the Local Government White Paper.
436. The proposals are aimed at devolving most decision-making on the conduct regime for local authority members to local authorities, with a revised, regulatory role provided for the Standards Board. The measures provide for local standards committees to make initial assessments of misconduct allegations and for review arrangements for those assessments which lead to no action being taken. The provisions also give powers for the Standards Board to suspend a standards committee's role in making initial assessments of allegations, and for the Board to issue guidance to standards committees and ethical standards officers.
437. In addition, provision is made for decisions in respect of local authority posts subject to political restrictions to be undertaken by standards committees rather than, as now, by the Independent Adjudicator, and to enable the Secretary of State to issue an order to allow the maximum pay of political assistants to be linked to a point on a relevant pay scale specified by the order.

CHAPTER 1: CONDUCT OF LOCAL AUTHORITY MEMBERS

Codes of conduct

Section 183: Conduct that may be covered by code

438. This section amends sections 49, 50, 51 and 52 of the Local Government Act 2000 in relation to the principles that govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, the provisions of the code of conduct they are required to follow and the provisions which such authorities may add to the code of conduct they adopt. The effect is that such principles and provisions may apply to a member when he or she is acting in an official capacity, but the only principles and provisions which may apply to members outside their official capacity are those which prohibit conduct that would (if engaged in) constitute a criminal offence.

Section 184: Certain references to code of conduct to include default code

439. This section makes amendments to sections 37, 52 and 54 of the Local Government Act 2000. The effect of the amendment to section 37 is that authorities which have not adopted a code of conduct will be under a duty to include a copy of the mandatory provisions of the model code in their constitutions. The effect of the amendment to section 52 is that a person who becomes a member of an authority which has not adopted a code of conduct will be required to undertake that he will observe the mandatory provisions of the model code. The amendment to section 54 will provide for standards committees to assist members and give advice and training to them on following the mandatory provisions of the model code. The amendment to section 54 will also provide for standards committees to monitor the operation of the mandatory provisions of the model code.

Conduct of members of authorities in England: assessment of allegations

Section 185: Assessment of allegations

440. This section inserts section 57A of the Local Government Act 2000 which provides for individual local standards committees of authorities to undertake the role currently exercised by the Standards Board for England of conducting the initial assessment of allegations of misconduct which relate to authorities' members or co-opted members.
441. It sets out the courses of action open to a standards committee where such an allegation is received. The options are: to refer the allegation to the authority's monitoring officer for consideration; to refer the allegation to the Standards Board; or to take no action in respect of the complaint.
442. It also provides that a standards committee has discretion, where the subject of the allegation is no longer a member or co-opted member of the authority in question and has moved to another relevant authority, to refer the allegation to the monitoring officer of the member's current local authority.
443. The section requires that, if a standards committee decides to take no action over an allegation, it should write to the person who made the allegation informing them of the decision and the reasons for this.
444. The section also makes provision for the Standards Board to issue guidance and give directions to a standards committee with respect to the exercise of these procedures.
445. The section also inserts section 57B of the Local Government Act 2000, to provide, where a standards committee of an authority has made a decision that no action should be taken regarding an allegation, for the person who made the allegation to be able to ask the standards committee to review its decision. The request for review must be made in writing within 30 days of the date of the notice of the original decision. Following receipt of such a request, the standards committee must undertake a new assessment of the allegation and reach a decision within three months of the date it received the request for a review of its original decision.
446. The section also inserts section 57C into the Local Government Act 2000 which provides that where a person makes an allegation of misconduct to a standards committee it must take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegation. Where the standards committee

makes a decision that no action should be taken, it must also take reasonable steps to give notice of this and the reasons for the decision to the subject of the allegation. In addition, where the standards committee receives a request to review a decision to take no action, it must take reasonable steps to give notice of this to the subject of the allegation. A power is also included for the Secretary of State to make regulations which may prescribe circumstances in which the duty to give a summary of the allegation to the subject of it should not arise at the time the standard committee receives the allegation but at another time.

447. The section also inserts section 57D of the Local Government Act 2000, to enable the Standards Board to direct that a standards committee's power to undertake initial assessments of misconduct allegations should be suspended, and to direct that any allegations the standards committee receives must be referred either to the Standards Board or to a specified standards committee of another authority. The section provides a power for the Secretary of State to make regulations concerning the circumstances in which the Standards Board can exercise this power. *Subsection (7)* of new section 57D provides the Standards Board with a power to issue guidance in connection with section 57D or in connection with any direction under that section.
448. The section also inserts a new section 58 of the Local Government Act 2000 setting out the courses of action open to the Standards Board when an allegation is referred to it for consideration. The Standards Board must either refer the allegation for investigation to one of the Board's ethical standards officers, or decide that no action should be taken, or refer the matter back to the relevant local standards committee. Where it decides to take no action, it should give notice of the decision and the reasons for it to the person who made the allegation and to a person who was the subject of the allegation.

Section 186: Information to be provided to Standards Board by relevant authority

449. This section requires a relevant authority to furnish the Standards Board with periodic information on the allegations of misconduct its standards committee has received, any requests received to review its standards committee's decisions to take no action in respect of allegations, and the exercise of functions by the standards committee or the monitoring officer. The authority must comply with the request for information by such date as the Standards Board may specify.

Conduct of local authority members: miscellaneous amendments

Section 187: Chairmen of standards committees

450. Section 53(4) of the Local Government Act 2000 is amended to provide that standards committees of authorities should be chaired by a person who is neither a member nor an officer of a relevant authority.

Section 188: Sub-committees of standards committees

451. This section has the effect that a standards committee of a relevant authority in England may appoint a sub-committee to undertake any of its functions, including any functions concerning parishes.

Section 189: Joint committees of relevant authorities in England

452. This section inserts section 56A into the Local Government Act 2000 to empower the Secretary of State to make regulations under which two or more relevant authorities may establish a joint committee and arrange for functions otherwise exercisable by their standards committees to be exercisable by the joint committee.

Section 190: Standards Board for England: functions

453. This section amends section 57(5) of the Local Government Act 2000 and Schedule 4 of that Act to provide that the Standards Board may issue guidance to ethical standards officers with respect to the exercise of their functions, and to enable the Board to be able to take action to facilitate the functions of standards committees or monitoring officers.

Section 191: Ethical standards officers: investigations and findings

454. This section makes amendments to sections 59 and 62 of the 2000 Act, amending the description of two of the findings which an ethical standards officer can make and providing that his access to documents will not be limited, as now, to documents relating to a relevant authority. It also extends section 63 to provide that information obtained by an ethical standards officer in the course of an investigation may be disclosed where the disclosure is made to allow the monitoring officer to carry out his duties or it is made to the Commissioner for Local Administration or to the Electoral Commission for the purpose of their functions. An order making power is also provided for the Secretary of State to allow for such disclosures to be made to other people.

Section 192: Ethical standards officers: reports etc

455. This section amends sections 64 and 65 of the Local Government Act 2000 to provide that an ethical standards officer's report on the outcome of his investigation or an interim report on his investigation can be passed to the relevant standards committee in order to assist it in carrying out its functions.
456. It also provides a power for the Secretary of State to make regulations concerning the withdrawal of a reference by an ethical standards officer of matters which are the subject of either his report or his interim report to the Adjudication Panel.

Section 193: Disclosure by monitoring officers of ethical standards officers' reports

457. This section inserts section 65A into the Local Government Act 2000 to allow a monitoring officer to inform any member or officer of an authority of the outcome of an ethical standards officer's investigation into an allegation, and also to furnish them with a copy of the report or any part of it where this will help to promote high standards of conduct by members and co-opted members of the authority.

Section 194: Matters referred to monitoring officers

458. This section amends section 66 of the Local Government Act 2000, to provide for regulations to enable a monitoring officer to refer back cases referred to him by a standards committee and set out the circumstances in which such a referral back may be made. Regulations may make provision with regard to access to and disclosure of information.

Section 195: References to Adjudication Panel for action in respect of misconduct

459. This section inserts section 66A, which allows regulations to be made in respect of the referral by standards committees of a case to the Adjudication Panel where it considers the sanction available to it would be insufficient. The Adjudication Panel's members will then decide what sanction, if any, should be imposed against the person.

Section 196: Consultation with ombudsmen

460. This section extends to standards committees the provisions in section 67 of the Local Government Act 2000 to provide that the Local Government Ombudsman or the Public Services Ombudsman for Wales may consult the standards committee (as well as the Standards Board) about a case if he believes that the complaint he is considering relates partly to a matter which may be of concern to the committee.

Section 197: Interim case tribunals

461. This section amends section 78 of the Local Government Act 2000 to provide that, where an interim case tribunal decides that a member should be suspended, the effect of the tribunal's notice is to suspend or partially suspend the member, rather than, as currently, requiring that the authority should take action to put the notice into effect. In addition, new provision is made for an appeal to the High Court against a decision by an interim case tribunal only to be possible where the permission of the High Court has been given.

Section 198: Case tribunals: England

462. This section inserts sections 78A and 78B into the Local Government Act 2000 in respect of case tribunals in England. Section 78A provides a new power for the Secretary of State to make regulations concerning the sanctions which a case tribunal can impose. Section 78B provides that a case tribunal must give notice of its decision on a case to the Standards Board, the member who is the subject of the allegation, and the person who made the allegation. The case tribunal must also publish its decision in one or more local newspapers. New provision is also made for an appeal to the High Court against a decision by a case tribunal only to be possible where the permission of the High Court has been given.

Section 199: Case tribunals: Wales

463. This section amends section 79 of the Local Government Act 2000 to make provision in respect of case tribunals in Wales, including defining what is meant by the term 'Welsh case tribunal' and setting out the provisions with respect to decisions made by case tribunals which should apply in respect of Welsh case tribunals.

Section 200: Exemption from Data Protection Act 1998

464. This section inserts new sub-sections 31(7) and (8) of the Data Protection Act 1998 to provide that personal data processed by a monitoring officer, an ethical standards officer or the Public Services Ombudsman for Wales for the purpose of discharging any function under Part 3 of the Local Government Act 2000 are exempt from the subject information provisions of the Act to the extent to which the application of

those provisions to the data would be likely to prejudice the proper discharge of that function.

Section 201: Supplementary and consequential provision

465. This section makes supplementary and consequential provision, including allowing for the disclosure of information obtained by the Audit Commission or an auditor for the purposes of the functions of a monitoring officer.

CHAPTER 2: EMPLOYEES

Section 202: Politically restricted posts: grant and supervision of exemptions

466. The Local Government and Housing Act 1989 provides that a person is disqualified from becoming a member of a local authority if he or she holds a politically restricted post. This section amends the 1989 Act so that the granting and supervision of exemptions from the political restriction will be the responsibility of the standards committee of each local authority in England, rather than that of the Independent Adjudicator. The section also provides that the Secretary of State may issue general advice with regard to the making of decisions on political restrictions. Before giving such general advice, the Secretary of State must consult those representatives of local government he considers appropriate.

Section 203: Politically restricted posts: consequential amendments

467. This section makes consequential amendments to the Local Government and Housing Act 1989, the Environment Act 1995 and the Greater London Authority Act 1999 to ensure that the new arrangements are compatible with existing legislation.

Section 204: Political assistants' pay

468. This section provides for the Secretary of State to make an order in relation to England which will specify the maximum pay of political assistants by reference to a point on a relevant pay scale. Welsh Ministers may make such an order in relation to Wales.

Local Government and Public Involvement in Health Act 2007
Ethical Standards Checklist

	<i>Checklist</i>	<i>Standards Board Comments</i>
1	<p>Size of standards committee</p> <p>Standards committees must have a minimum of:</p> <ul style="list-style-type: none"> • Three members (two elected members and one independent member). • 25% as independent lay members if the committee is more than three people. • An independent chair (from April 2008). • One parish or town council member if the authority has responsibilities for those councils. . 	<p><i>Effective practice - the Standards Board recommends:</i></p> <ul style="list-style-type: none"> • At least six people as a minimum (three elected members and three independent members). • Two, or possibly three, parish or town council members if the authority has responsibilities for those councils. • Consideration of whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.
2	<p>Structure of standards committees</p> <ul style="list-style-type: none"> • In addition to their role as champion and guardian of the authority's ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct: <ul style="list-style-type: none"> ➤ Receiving and assessing complaints. ➤ Reviewing local assessment decisions. ➤ Conducting hearings following investigation. • To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be 	<p><i>Effective practice – the Standards Board recommends:</i></p> <ul style="list-style-type: none"> • A structure of sub-committees or the standards committee acting as a pool of members to deal with the different roles. • As a minimum, two separate subcommittees, one for taking initial assessment decisions and one for taking decisions on reviews. • Subject to regulations, any subcommittee should also have an independent chair. • A member who was involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards

	requested.	Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something that needs to be investigated. It does not require deliberation of whether the conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.
3	Training	<p><i>Effective practice – the Standards Board recommends:</i></p> <ul style="list-style-type: none"> • Standards committees are fully trained on the Code of Conduct. • Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing. • Independent chairs and vice-chairs are trained in chairing meetings. • Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.
4	<p>Local assessment criteria</p> <ul style="list-style-type: none"> • Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints. • Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness. • Monitoring officers will be able to acquire additional factual information which is readily available about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making. It should not include interviews or investigation. <p>A complainant has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit</p>	

	further information in support of the complaint at the appeal stage in the process.	
5	Role of the monitoring officer in the new framework	<p><i>Effective practice – the Standards Board recommends:</i></p> <ul style="list-style-type: none"> • A pre-meeting with the independent chair. • Preparing a summary of the allegation for the standards committee. • Highlighting what the potential Code breaches are which underlie an allegation to the standards committee. • Allowing case reading time for the monitoring officer and the standards committee.
6	Local assessment and the corporate complaints process	<p><i>Effective practice – consider:</i></p> <ul style="list-style-type: none"> • How will the public be informed of the new arrangements? • Who will receive and log an allegation? • The production of an individual information leaflet for the local assessment process, possibly combined with the corporate complaints process.
7	<p>Future monitoring by the Standards Board</p> <ul style="list-style-type: none"> • The Standards Board is consulting a sample of authorities involved in a pilot study on proposals for an online information return system, which will allow authorities to tell us about how local arrangements are working. • This system is being designed based on what standards committees need locally, and to enable authorities to provide information to the Standards Board as simply as possible. 	

	<ul style="list-style-type: none"> • Authorities will be able to use the system locally for their own records, to keep standards committees informed of their authority's ethical activities. • Proposals for the system include quarterly online returns on cases, which will be simple and quick to use, and nil returns if there is no activity to report. 	
8	<p>Local assessment guidance</p> <ul style="list-style-type: none"> • The Standards Board will help standards committees by providing guidance in 2008 on all aspects of the local assessment process, subject to the passage of the relevant regulations, with a toolkit to include: • Template notices for publicising the authority's Code of Conduct complaint process. • Complaint assessment flowcharts. • A standard complaint form. • Template letters for each stage in the process. • Template referral and non-referral decision notices. Guidance to assist with drafting criteria and for the authority to define its threshold for referral. • Template terms of reference for assessment and review committees. 	
9	<p>Conduct that may be covered by code</p> <p>This is the application of the Code to cover some conduct in a private capacity, where this has led to a criminal conviction.</p>	

AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

PRIVATE CAPACITY AND THE CODE – UPDATE REGARDING CONDUCT WHICH HAS GIVEN RISE TO A CRIMINAL CONVICTION

Issue for Consideration

The application of the Code of Conduct to Members, in particular such conduct which has given rise to a criminal conviction.

Information

Much has been said about the High Court decision in *Livingstone -v- The Adjudication Panel for England 2006*, which changed our understanding and interpretation of the extent to which the Code of Conduct could apply to the conduct of members. Prior to this decision there was no doubt that the paragraphs on disrepute and improper use of position applied to the conduct of a member whether they were acting in their official capacity or any other circumstances. The decision in the *Livingstone* case made it quite clear that the Government had exceeded the powers under the Local Government Act 2000, which required members to observe the Code “in the performance of their functions” as Councillors.

The Local Government and Public Involvement in Health Act 2007 sought to address this confusion and the Code of Conduct now adopted by this Authority clearly states that it will apply to you:

1. Whenever you act in your official capacity, including whenever you conduct the business of your authority, or act, claim to act, or give the impression you are acting in your official capacity or as a representative of your authority.
2. At any time where your behaviour has led to a criminal conviction. However, only paragraph 3(2)(c) – intimidation, paragraph 5 – disrepute and paragraph 6(a) – improper use of position have effect in these circumstances when you are acting in your private capacity and where that conduct results in a criminal conviction. Otherwise the Code of Conduct does not apply to your private life.

The Committee should be aware however that until there is Parliamentary approval to Section 52 of the Local Government Act which reinstates the situation prior to the *Livingstone* case, the Code of Conduct does not apply to conduct outside of the performance of your functions as members. Only if you have engaged in an activity which has a link with the functions of your office will any

conduct in your private capacity be covered by the Code. Furthermore, only when legislative amendments are passed (currently expected in the Autumn of this year) will the Code of Conduct apply to criminal activity which has led to a conviction. It will include any offence committed before taking office but which led to a conviction after taking office.

It is perhaps the concept of what kind of criminal conviction should be taken into consideration which is causing most concern. Regulations and guidance will no doubt be forthcoming, but the Committee needs to be aware of current debates on the issue and type of conduct which is likely to be caught by the Code.

The test appears to be whether the criminal offence is one that impacts on someone's role as a Councillor. In essence, conduct which is far from ethical, conduct which offends the morals and social protections of our society, and conduct which undermines those holding positions of trust and responsibility.

Trivial criminal convictions will not be caught by the Code but matters such as drink-driving, downloading child porn from the internet onto personal computers, fraudulently obtaining payment during the course of employment, lewd conduct in a public place, housing and Council Tax benefit fraud are all of such a seriousness nature that they will significantly impact on a member's position and standing within the community.

There is still a gap in the applicability of the Code to some conduct, in that it does not apply to a member who has been cautioned rather than convicted of a criminal offence. Potentially therefore, if such a member does not succumb to the pressure of resignation they may continue to hold a position of trust within the community. There is little which can be done to rectify this unsatisfactory position until perhaps a further review of the Code takes place or there is a local authority brave enough or the Standards Board is bold enough to interpret "conviction" widely and loosely to include cautions.

The integrity of elected members and officers of the Authority is fundamental to public confidence in the delivery of Council services. It is important to ensure that integrity is maintained at a high level which impacts positively on the Authority's and Constabulary's ambition and objectives.

Decisions Required

The Committee is asked to note the report.

Background Papers

Local Government & Public Involvement in Health Act 2007
Member Code of Conduct

Report Author

Name: Angela Harrison
Rank: Monitoring Officer
Organisation: Lancashire Police Authority ☎ 01772 906603

AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

LOCAL ASSESSMENT TRAINING EXERCISE

Issue for Consideration

Details of a local assessment training exercise.

Information

The Standards Board for England has published a training exercise for standards committees, which aims to prepare them for the forthcoming changes to the standards framework. This will see committees responsible for standards matters becoming responsible for assessing Code of Conduct complaints and deciding whether action needs to be taken. The exercise has been adapted from the local filter pilot exercise.

The training exercise consists of a range of anonymised complaints that the standards Board have dealt with. Each case includes a set of papers submitted by a complainant and a summary of each complaint to help the standards committee in its decisions. There are also two appeal cases that will give the standards committee practice at operating the appeal mechanism.

The aim is for the committee to decide what action, if any, they would take in relation to the complaint. For example, to decide whether they think the case merits referral for investigation. A report that sets out the benefits of the exercise and how to carry it out is available to download from the Standards Board website with the case papers.

Also provided are decisions on the cases that reflect what action the Standards Board might have taken in relation to each complaint. However, these will only be revealed once the committee has completed the exercise.

It is likely that the training exercise could take up to a half day to complete and it is suggested that this takes place once the regulations and guidance has been published in April 2008.

Decisions Required

The Committee is asked to note the report and note that officers will be making arrangements for the training exercise to take place following the publication of the regulations.

Background Papers

Local Government & Public Involvement in Health Act 2007
Standards Board for England Training Exercise

Report Author

Name: Angela Harrison
Rank: Monitoring Officer
Organisation: Lancashire Police Authority ☎ 01772 906603

AUDIT AND STANDARDS COMMITTEE

3 MARCH 2008

PART I

ADJUDICATION PANELS

(Appendix 'A' refers)

Issue for Consideration

An update for the Committee on the work of the Adjudication Panel.

Information

The Adjudication Panel for England is an independent Judicial Tribunal which was established under the Local Government Act 2000 to hear and adjudicate on matters concerning the conduct of Members pursuant to their code of conduct.

The Panel considers reference made to it by an Ethical Standards Officer of the Standards Board for England. The Adjudication Panel also hears appeals pursuant to the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

The Panel consists of a President and Members who are appointed by the Secretary of State.

Attached at Appendix A are Adjudication Panel case summaries since January 2007 through to October 2007. They are a useful source of information both in terms of issues discussed and approach.

Information on cases can be obtained from www.adjudicationpanel.co.uk.

Similarly, should Members want to view an adjudication panel in progress, as they are open to the public, details of the dates and locations of hearings are listed on the aforementioned website. The Monitoring Officer will review the website at intervals for a suitable local venue and Members will be advised if they wish to visit.

Decisions Required

The Committee is asked to note the report.

Background Papers

Nil.

Report Author

Name: Angela Harrison
Rank: Monitoring Officer
Organisation: Lancashire Police Authority ☎ 01772 906603

Local Government - October 2007
Members' conduct - Adjudication Panel Case Summaries

The following summaries are of cases heard by the Adjudication Panel for England since January 2007.

APE 0358

Councillor Manasseh, West Wiltshire District Council and Westbury Town Council

The allegation was that Councillor Manasseh had a personal and prejudicial interest because

- a) he was a member of Westbury Open Spaces Protection Group, and
- b) he had acted as the representative for an applicant who had sought to have part of Penleigh Park registered as a town green.

The case tribunal had earlier determined similar allegations in relation to another councillor (this case was heard later because Councillor Manasseh had sought judicial review proceedings against the Ethical Standards Officer) and concluded that

- a) the interests were not of a kind to justify a finding that the Councillor had a personal interest such that would preclude participation in the Council's consideration of the matters;
- b) the interests were not of a kind which required registration under the Code; and
- c) a reasonable observer in possession of the facts would not regard the Councillor as being unduly influenced by the interest to a greater extent than other inhabitants of the Councils areas.

In light of this finding the Ethical Standards Officer indicated that he did not intend to present a positive argument that Councillor Manasseh had breached the code. The case tribunal therefore decided that Councillor Manasseh had not breached the code of conduct.

Councillor Manasseh raised three issues of concern before the tribunal:

- a) the case tribunal's public notice of decision required by Section 79 (12) of the Local Government 2000 would cause "further unnecessary and unjustified publicity to unfounded allegations made against him"; and
- b) there is no need for the case tribunal to produce a fuller reasoned decision than the notice of decision and his rights to privacy under Article 6 of ECHR and to respect for his private and family life under Article 8 outweigh any public interest in having details of this matter in the public domain

- c) there should be no reference in the notice of decision to his unsuccessful attempt to claim judicial review against the Ethical Standards Officer.

In relation to the first issue of concern the case tribunal said that it could not avoid giving a notice as it was a statutory requirement under the 2000 Act and concluded that Article 6 of the European Convention on Human Rights requires its decision to be publicly declared.

In relation to the second issue of concern the case tribunal considered that the only aspect of Councillor Manasseh's private life in the case was his membership of the Westbury Open Spaces Protection Group which was already in the public domain. As such the case tribunal was not persuaded that it should not make its decision public, relying upon the qualification in Article 8 that any interference there may be with Councillor Manasseh's rights is justified as being in the interests of a democratic society. The tribunal considered it important that the public are aware that an independent and impartial tribunal have declared Councillor Manasseh's conduct as not being in breach of the code.

In relation to the third issue, the case tribunal were mindful of Article 6 of ECHR requiring a hearing to be held within a fair and reasonable time and considered it appropriate to explain the reason for delay being Councillor Manasseh's claim for judicial review.

APE 0374

Councillor Shaddock, Portsmouth City Council

Several alleged breaches of the code of conduct were considered by the case tribunal concerning the behaviour of Councillor Shaddock. First, it was alleged that Councillor Shaddock failed to treat the Head of Human Resources with respect, and used his position to confer an advantage on another person because of the contents of an email he sent to the Head of HR concerning a management decision about a Council employee. The email issued an instruction as the Executive Member for Housing, Health and Social Care for a letter to be withdrawn by a specified deadline. The email also included a threat to write to staff telling them not to cooperate with managers.

Secondly, it was alleged that Councillor Shaddock failed to treat the Head of HR with respect at a Council meeting. The Head of HR prompted Councillor Shaddock as to his potential interests in relation to a matter being discussed, in response to which Councillor Shaddock became angry, raised his voice and made a number of comments relating to what he felt was an unwarranted intrusion into his private life, including asking how dare she [the officer] tell him how to run his life, and how dare she speak to him like that, and said that he would have her disciplined, and to get out of the meeting. At the end of the meeting Councillor Shaddock apologised for his outburst.

In addition, Councillor Shaddock is alleged to have failed to treat the Head of HR with respect in relation to a letter he wrote to the Monitoring Officer seeking action to be taken against the Head of HR on the basis that she had made a complaint to the Standards Board for England about his behaviour. His letter threatened that if no reply was given by the end of the day that action would be taken against the officer, he would write to "every member of staff at the council stating that they should have no faith in the Head of Human Resources whose department continually and regularly messes up anything they seem to touch".

The case tribunal decided that Councillor Shaddock had failed to treat the Head of HR with respect and used his position improperly, as well as compromising the impartiality of officers.

In relation to the email, the case tribunal said that Councillor Shaddock was not in a position to instruct officers how to deal with an individual case, and by seeking to instruct how discretion should be exercised in this case he compromised the impartiality of the managers. In addition, the email was unfair and unreasonable because it provided insufficient time for a reasoned response based on an investigation of the facts and required the Head of HR to depart from good management practice to comply with a request which the Respondent did not have the authority to make, and made an unjustified threat to embarrass her by writing to other members of staff if she did not comply with his demands. The tribunal also considered that he had attempted to use his position improperly to confer an advantage on the employee.

In relation to his behaviour towards the Head of HR at the Council meeting, the case tribunal decided that Councillor Shaddock failed to treat her with respect. The tribunal considered his behaviour was unreasonable and unfair as the Head of HR had not pried into his private life. Demanding a senior officer leave a meeting and stating that she should be disciplined was demeaning because this was done without any reasonable basis in fact and even if they had been, they were raised at an inappropriate time.

Also the tribunal considered that Councillor Shaddock's letter was unreasonable and unfair and amounted to a failure to treat the Head of HR with respect. The tribunal also considered that Councillor Shaddock's letter was written in threatening terms, and sought to exert pressure on the Monitoring Officer to comply with his demands which was considered to compromise the impartiality of the Monitoring Officer.

The case tribunal also decided that Councillor Shaddock's behaviour brought his authority or office into disrepute as his irrational behaviour in response to officer actions and the manner in which he took decisions about how to act would be likely to lead a member of the public to have confidence in his decisions being rational and well founded.

Taking account of relevant factors in mitigation, Councillor Shaddock was disqualified for three months.

APE 0376

Councillor Sandy, Rushmoor Borough Council

Nine allegations were made against Councillor Sandy that he had failed to comply with the code by failing to treat others with respect and bringing his office or authority into disrepute.

The case tribunal considered all nine allegations and reached the following decisions:

- 1) Writing to an officer of the Council to protest about a seminar on the proposed merger of two Housing Associations, ending his letter by saying, 'I am sick of getting the run around by you.' The Case Tribunal decided that Councillor Sandy had not breached the code although he had used inappropriate and intemperate language. Councillor Sandy expressed in an extremely blunt manner the way in which he felt he was being treated.

- 2) Writing to another councillor, then the Council's Housing Portfolio holder, stating, 'I am disgusted with [the officer] as she knew how bad it was at [the Housing Association] but stood by and did nothing, really she should be sacked for her incompetence and neglect as housing officer.' The Case Tribunal decided that Councillor Sandy had not breached the code of conduct but had used inappropriate and intemperate language. Councillor Sandy had the right to draw to the attention of a portfolio holder his perception of an officer's performance.
- 3) Telephoning an officer concerning a constituent stating that she [the officer] had let him (Councillor Sandy) down all the time; that he was sick of her and would complain to the Chief Executive. The Case Tribunal decided that there was no breach of the code but considered Councillor Sandy's language was inappropriate.
- 4) Complaining during an interview with BBC Southern Counties radio on 15 April 2005 that nothing had been done about his constituent's case, giving the officer's name and job title at the Council and saying that she had done nothing and was not interested in the matter. There were evidential difficulties in relation to this allegation and on that basis considered it unjust to find that there had been a breach.
- 5) Accusing an officer in a letter of using her position to secure an advantage for a friend. The Case Tribunal decided that Councillor Sandy's accusation was not based on evidence, and he failed to give the officer the opportunity to defend herself and her reputation. It alleged corrupt behaviour on the part of the officer and amounted to a breach of the code.
- 6) Sending a fax to a senior officer stating, 'I am absolutely disgusted with the way you have been treating (these people)...' and 'if you fail to do this within ten days I will bring in the media and I don't just mean locally.' The Case Tribunal decided that an accusation in the fax that the officer had obtained a signature falsely was an unjustified attack of a serious nature and failed to treat the officer with respect.
- 7) Sending a further fax to the officer saying, 'I have spoken to other councils and I have told them how you withhold information and how you are treating these two and they are absolutely appalled at your department's behaviour.' As there was no evidence that Councillor Sandy mentioned the officer by name to a third party, the tribunal decided there was no breach of the code.
- 8) Sending a faxed letter to an officer stating '... and I will expect your full co-operation, something I have not received to date, either on this case or any other'. The case tribunal did not consider there was a breach of the code although noted the use of intemperate language.
- 9) Sending faxes to an officer stating, '...you have acted true to form in a most unprofessional manner, referring me to come in and look at the files...' and '...you have made his [Mr C's] life a misery with all your false stories and accusations this council's name will stink by the time I am finished with you lot (...) Why you and your department have gone out of your way to do this to [Mr P and Mr C] is pure vindictiveness.' The case tribunal decided that the faxes breached the code as they went beyond the simple use of inappropriate and blunt language and contained threats.

The case tribunal decided that there was a pattern of behaviour towards two officers which was unfair and unjust and therefore failed to treat others with respect and allegations against the officers alleging corrupt behaviour brought his officer or authority into disrepute.

The case tribunal decided, following submissions as to mitigation, to disqualify Councillor Sandy for three months.

APE 0377

Councillor Hudson, Great Yarmouth Borough Council

It was alleged that Councillor Hudson complained to the borough planning officer that another officer had failed to keep a promise to him to keep him informed about a planning application. The case tribunal was unclear from the oral evidence whether Councillor Hudson asked Mr Gilder to keep him informed, and made no finding in relation to the matter and decided that there was no breach of the code.

It was also alleged that Councillor Hudson told an enforcement officer during a telephone conversation that he would prefer an external legal adviser to handle an enforcement appeal rather than the enforcement officer's line manager and would seek that line manager's resignation if the appeal was allowed. The case tribunal decided that Councillor Hudson showed a lack of respect towards the line manager which breached the code.

It was also alleged that in a letter which Councillor Hudson wrote to the Local Government Ombudsman he stated that a planning officer was professionally incompetent. The Case Tribunal accepted that a councillor had a right to complain if he felt that an officer of the Council was not fulfilling his role competently. However, a councillor did not have the right to make wild allegations to besmirch the name of officers. Councillor Hudson repeated allegations against the officer which had already been resolved and the case tribunal decided that Councillor Hudson failed to treat the officer with respect.

Another of the matters involved Councillor Hudson telling members of the Council that he heard four people, with connections to the council, mislead the Court from the witness box in a trial concerning a former Councillor. Councillor Hudson's remark in the council chamber was of a serious nature and amounted to a public accusation that officers of the council had misled the court. Despite making such serious accusations, Councillor Hudson did not report his concerns to the police. The case tribunal decided that Councillor Hudson had shown a lack of respect to those people who gave evidence at the trial. His words indicated that those who gave evidence acted in a way which was tantamount to perjury and the reputation of all of the witnesses would have been potentially damaged as the witnesses at trial were clearly identifiable. Councillor Hudson should have referred his concerns to the police as soon as possible. The case tribunal also considered that this behaviour brought his office or authority into disrepute. He gave the impression by his accusations that officers and others connected to the Council were untrustworthy and would lead a reasonable person to understand that the people he was referring to had committed perjury.

The case tribunal decided to disqualify Councillor Hudson for 18 months taking account of his failure to adhere to warnings previously given about his behaviour, and his lack of understanding that his conduct towards officers was unacceptable.

APE 0382

Councillor Egginton, Mansfield District Council

It was alleged that Councillor Egginton used his position improperly by introducing a local businessman to Robin Hood Worldwide Limited ('RHWL') in order to try to secure an advantage for the company of which he was at the time a director and by his involvement in matters relating to RHWL's dealings with Mansfield District Council, including at a time when the Council was taking legal action against the company, to secure an advantage for the company of which he had formerly been a director. It was also alleged that such conduct brought the office or authority into disrepute.

Councillor Egginton was an unremunerated director of RHWL and supported the idea to create a theme park in or around Mansfield based on the Robin Hood legend.

In his capacity as Mayor, Councillor Egginton met a local businessman and suggested a meeting between the local businessman and another director of RHWL. An agreement was made that a business unit let by the Council to the local businessman would be shared by the businessman and RHWL, with RHWL being responsible for the rent and rates. However no rent was paid and Councillor Egginton shortly after resigned as a director of RHWL. RHWL eventually accepted liability for rates and were granted a hold on paying. Eventually court action to recover arrears of rates was begun and the Council was granted a Liability Order against RHWL. Further court action commenced to secure possession of the premises against the local businessman and RHWL. Councillor Egginton was involved in meetings with officers and RHWL and at one meeting a five point document was drawn up which included as a fifth point, the withdrawal of the court order against RHWL. The Council was awarded possession and the order of the court provided that the Council had permission to withdraw the claim against RHWL. The reason given for withdrawing against RHWL was that the lease placed responsibility for the rent on the local businessman and the Council could not sustain any claim against the company.

The Case Tribunal commented that it did not find this to be an easy case to determine, and recognised that Councillor Egginton had put himself in a vulnerable position in which his integrity could be impugned.

The tribunal recognised that there is a need for interaction and co-operation between organisations, but there must be clear divisions in between public bodies and commercial organisations, even when there is a common interest or goal. The tribunal considered that Councillor Egginton was foolish to accept the offer of a directorship with RHWL, even though it was without remuneration as the scope for conflict of interest and impropriety is both considerable and obvious. The tribunal also noted the complex character of a local authority with the checks and balances which ensure the highest standards so as to protect to the public interest and the integrity of members.

The tribunal decided that Councillor Egginton had not breached the code of conduct. It did not accept that Councillor Egginton's introduction amounted to conferring or securing an advantage on or for RHWL. The parties used the introduction to negotiate at arm's length and did not involve Councillor Egginton further. In relation to this matter, the tribunal found the local businessman's evidence to be unreliable.

In relation to the alleged continued involvement of the Respondent in the Council's dispute with RHWL and the local businessman, the tribunal did not consider that there were breaches of the code. The tribunal considered in detail the meeting where the five points were identified and in particular the fifth point that the Council would withdraw the court order against RHWL. The tribunal noted that the ESO appeared to be confused as to which

court order was being referred to at the meeting, which was emphasised by a misreading of the note of the meeting by the ESO's investigator during interview with Councillor Egginton. In addition the tribunal was unable to identify any advantages which may have accrued as a result of the meeting as the note was not binding on the Council although the Council (wrongly in the view of the tribunal) interpreted it to be so. Any pressure on the Council to withdraw the possession proceedings taken against the company was caused by the inaccurate construction of the note made by the Council's internal and external advisers. As it was not the intention of the note to bind the Council in not seeking to enforce the order already obtained against the company, and it was not within the power of the Council to withdraw an order of the court, there was no particular advantage conferred on RHWL by the meeting. Councillor Egginton's conduct could be construed as ill-advised rather than improper.

APE 0386

Councillor Adkins, Ashfield District Council

Councillor Adkins allegedly failed to treat the local police Divisional Commander with respect at a special Council meeting to hold the Council's annual 'State of Ashfield' debate. The Divisional Commander was invited by the Council's Chief Executive to attend the meeting to talk about the allocation of beat managers and police community support officers within neighbourhoods.

During the Divisional Commander's talk, Councillor Adkins interjected and suggested he was not telling the truth. Councillor Adkins accused the Divisional Commander of not returning telephone calls and called him a liar. The case tribunal found Councillor Adkins behaviour to be rude and offensive.

The case tribunal decided that Councillor Adkins failed to treat the Divisional Commander with respect. The special meeting was high profile and attended by both public and press, during which Councillor Adkins called the Divisional Commander a liar in a rude and offensive way.

The case tribunal commented that it was acceptable to fairly criticise a public official in an appropriate manner. However impugning the integrity of a public official in a public forum was unacceptable.

The case tribunal suspended Councillor Adkins for three months, noting that he showed no insight that what he did was wrong and demonstrated no remorse or regret for his actions.

Claire Lefort, Associate, Weightmans LLP