

# **ETHICAL STANDARDS & COMMUNITY GOVERNANCE**

## **BY MIRZA AHMAD**

### **INTRODUCTION**

Birmingham City Council has been at the forefront, since April 2003, in terms of devolving **executive** powers and local services to District Committees. As the Birmingham City Council's Chief Legal Officer, I have assisted and supported the City Council to develop its constitutional arrangements and ethical governance agendas to ensure successful devolution to the one million citizens of Birmingham. This article is, therefore, based on my practical hands on experience of making real and living 'double devolution'.

### **A HOLISTIC APPROACH**

*The Independent Commission on Good Governance in Public Services* (supported by OPM, CIPFA and the Rowntree Foundation Jan 2005) on *Good Governance Standard in Public Services* has also emphasised that "Good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes."

On 19<sup>th</sup> January 2005, *The Committee of Standards in Public Life* (Graham Committee) - 10th Inquiry Report "*Getting the balance right: Implementing standards of conduct in public life*" - also concluded that:

- "Despite incidences of corruption and misbehaviour, the vast majority of councillors and officers observe high standards of conduct"; and
- "The ethical standards framework for local government is arguably the most extensive and comprehensive statutory framework for standards of conduct of any group of public office-holders".

The Independent Commission also concluded that "the Governors" – people responsible for governance – have, to put it simply, to establish and deliver good ethical and corporate governance for the public good.

### **THE BIRMINGHAM EXPERIENCE**

As the Corporate Constitutional Lawyer in Birmingham City Council, I have been instrumental throughout this period in ensuring that the City Council's Corporate and Ethical Governance arrangements, with regard to devolution, are not only effective and efficient, but are "fit for purpose".

Devolving real power is not, therefore, an illusion, but a reality in Birmingham. The key to success is to ensure ethical governance is built into the community governance agenda - at the start - and not as an "add on" to emerging problems or power shifts at the local level.

### **LOCAL STRATEGIC PARTNERSHIPS AND OTHER FOR A**

Some of these stakeholders tend to be the "usual suspects" and include established / vociferous pressure groups, communities of interests and new / emerging interest groups. One of the keys to local government success in devolution terms has, therefore, to be about ensuring that there is engagement of citizens, as a whole, and not just with or by the vociferous activists / pressure groups.

The role of the Elected Member at the local level then becomes an important community leadership role in ensuring that the right level of skills and abilities - including personalities - are around the table to "agree" and drive any "agreed" local agendas. Hard to reach groups/interests have also to be nurtured by members and officers with a view to encouraging capacity and capability in the locality and to ensure appropriate engagement with the democratic processes.

From a legal perspective, local strategic partnerships are, of course, not separate legal entities, but unincorporated bodies consisting of elected / nominated representatives and other various interests and community/voluntary groups. Save for Elected Members, who will be governed by the Code of Conduct for Members, the other "interests" groups may - or may not - be fortunate in having a range of ethical and corporate standards that they will be used to in terms of their existing practices to ensure good governance. This "exotic-mix" will have to be carefully chaired and monitored to ensure proper, legal, ethical and corporate standards are maintained or developed to achieve common objectives that serve the wider public good.

## **WORKING TOGETHER IN THE EXOTIC MIX**

The Elected Member in that exotic mix will, of course, be the only persons with any democratically elected mandate or legitimacy to represent/speak for the local people, as a whole. They are, therefore, rightly looked upon and expected to take a lead on community leadership issues. Elected Members are, of course, subject to the Ten General Principles (flowing from the Nolan principles) and, in particular, the Code of Conduct for Elected Members.

The position with regard to other members of the local strategic partnership will, however, be quite varied and seldom will they be the subject of strict codes of practice governing their ethical standards, conduct and behaviour or "overlooked" by the Standards Board for England/Adjudication Panel for England.

A mutual understanding or, preferably, a formal level of "standardisation" of ethical and community governance will, therefore, assist and must be put in place – led by elected members - so as to ensure ethical and corporate governance standards, conduct and behaviour are met within such partnerships. The bear minimum would, invariably, revolve around the Code of Conduct for Members, but may not be as each local strategic partnership, neighbourhood forum etc. will have to choose to sign up to relevant good governance arrangements.

## **LIMITATIONS ON MUTUAL STANDARDS**

One has to recognise that even if the non-Elected Members "accept" local codes for good governance, they will not be subject to the "independent scrutiny" provided by the Standards Board of England and the Adjudication Panel for England, as such bodies do not, currently, have jurisdiction over non-Elected Members. Whether these national bodies should have their jurisdictions extended will be a matter for government, in due course.

A lot will, of course, depend upon whether "local bodies" established to deliver on the "double devolution" agenda by the Government actually deliver successful change within ethical standards or whether they become hampered by ethical and local community governance issues which undermine the delivery of the "double devolution" objectives.

Bad cases will, no doubt, make bad law and the best solution is to ensure that appropriate ethical and corporate governance standards are built into the double devolution processes **before** there is a need to police such standards in organisations that have become dysfunctional or are beginning to show early signs of dysfunctional behaviour and conduct.

## **CONCLUDING REMARKS**

I am satisfied that there is a great positive role that Elected Members can play in steering and driving the agenda for improvements of local communities under "double devolution" as they have the legitimate democratic credibility, expectation and experience to deliver on the same. The Government must, therefore, think carefully before it devolves substantial amounts of money to **non-elected** and unrepresentative pressure groups or bodies that may, over time, become uncontrollable in the ethical and corporate governance sense. It is far better to think now, instead of worrying when things go wrong!

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