

## Swindon Borough Council

# Standards Committee

**Monday, 24 July 2006**

Committee Room 1, Civic Offices, Swindon  
(Anticipated meeting room)

**At 5.00 p.m.**

### Councillors

Melanie Duff  
Peter Stoddart (Deputy)  
(Conservative)

Maurice Fanning  
(Labour)

Martin Wiltshire  
(Liberal Democrat)

### Independent Members

Mr Keith Carby (Chair)  
Mr Trevor Davies (Vice-Chair)  
Mr Paul Morris

### Parish Representative

Mr Mike Compton  
Mr Richard Hailstone, Deputy)

**(Copy to all other Members of the Council – For Information)**

**Committee Officer:** Sarah Lawrence (Telephone 01793 463603)  
email: slawrence@swindon.gov.uk

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## AGENDA

### PART 1 (PUBLIC ITEMS)

#### 1. Declarations of Interest

Members are requested at the start of the meeting to declare any known interests in any matter to be considered, and are reminded that any such interest should also be declared at the start of an item or during any discussion of the matter concerned.

#### 2. Minutes (Pages 1 - 2)

To receive the minutes of the meeting held on 31 May 2006.

#### 3. Public Question Time

*(See explanatory note below. Please phone the Committee Clerk whose name and number appears at the top of this agenda if you need further guidance.)*

#### 4. Apologies for Absence

#### 5. Exempt Items - Exclusion of Press and Public

*Certain items are expected to include the consideration of exempt information and the Standards Committee is, therefore, recommended to resolve "That, in accordance with*

*Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the items listed below, on the grounds that they involve the likely disclosure of exempt information, as defined in the respective paragraph of Part 1 of Schedule 12A of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information".*

<u>Item No.</u>	<u>Paragraph No.</u>
<b>9</b>	<b>1 and 2</b>

- 6. Employee Code of Conduct** (DHR-P) (Pages 3 - 28)
- 7. Annual Report and Work Programme** (DLDS-R) (Pages 29 - 44)
- 8. Ethical Framework Update** (DLDS-R) (Pages 45 - 80)

## **PART 2 (TO BE CONSIDERED WITHOUT THE PRESS AND PUBLIC PRESENT)**

- 9. Ethical Framework Compliance Update** (Pages 81 - 82)

(being date of agenda despatch)

### **Key:**

GDR	Group Director, Resources
DLDS- R	Director of Law and Democratic Services
DHR-P	Director of Human Resources

**Public Question Time** - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

**Access Arrangements** - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

### **Standards Committee - Terms of Reference**

The Standards Committee has the following roles and functions in accordance with Article 9 of the Council's Constitution:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) To also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) ensure the Council's complaints procedure operates effectively in relation to standards of conduct and behaviour of staff and in particular
  - receive annual reports on its operation
  - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
  - adjudicate upon all complaints which remain unresolved
  - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour
  - approve and publish an annual report upon the operation of the system;
- (m) report to the Council when it considers:-
  - standards of conduct and behaviour in a particular area need reviewing, and
  - the level of commitment necessary to resolve these difficulties should be greater;
- (n) approve and monitor the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (o) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (p) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member;
- (q) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

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**STANDARDS COMMITTEE**

**WEDNESDAY, 31 MAY 2006**

PRESENT:- Mr Keith Carby (Chair), Mr Trevor Davies (Vice-Chair), Mr Mike Compton, Councillor Melanie Duff and Councillor Maurice Fanning.

**38. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

**39. Minutes**

Resolved – That the minutes of the meeting held on 20<sup>th</sup> March 2006, be confirmed and signed as a correct record.

**40. Public Question Time**

No public questions were asked under Standing Order 28.

**41. Hearing of Complaint in Respect of Councillor Lister**

The Standards Committee met to conduct a Hearing of Complaint in respect of an allegation that Councillor Dr. Charles Owen Lister had made offensive comments at a meeting of the Council's Children Act Task Group on 8<sup>th</sup> September 2005 and that these amounted to conduct which could reasonably be regarded as bringing Councillor Lister's office or Swindon Borough Council into disrepute, in contravention of the Council's Code of Conduct. The complaint had been referred by the Standards Board for England for local investigation and determination, in accordance with Statutory Guidance and the Council's own adopted Hearings Procedure.

In accordance with the adopted Hearings Procedure, the Standards Board's appointed Investigation Officer, Mr Peter Keith-Lucas of Bevan Brittan, Solicitors of Bristol, attended to present his report. Councillor Lister was also present and elected to present his own case.

The following witnesses were called by Mr Keith-Lucas to support the findings of his report:

Patricia O'Donnell (Regional Officer: NSPCC)

Jean Pollard (Assistant Director: Children and Families)

Councillor Fay Howard (Member for Parks Ward)

Councillor Lister called a single witness in support of his position. This witness was the parent of a severely disabled child. In view of the sensitivity of the evidence to be provided by this witness, relating to the extent of his child's disability and quality of life, and the likelihood that even the description of this information might cause the child to be identified, which situation might cause the family some distress, the Committee determined that this individual's evidence would be heard in closed session.

Resolved – (1) That, having considered the evidence presented by both parties to the case, this Committee determines that, on the balance of probabilities, the case made by the Investigating Officer is to be believed and therefore finds that Councillor Lister made insensitive and offensive remarks at a meeting of the Council's Children Act Task Group which brought his own office and the Council into disrepute in breach of the provisions of Paragraph 4 of the Council's Code of Conduct.

(2) That, further to (1) above, the Committee imposes the following sanctions on Councillor Lister in respect of his breach of the provisions of Paragraph 4 of the Council's Code of Conduct:

- (i) that, in relation to an insensitive and offensive comment he made at the meeting of the Children Act Task Group regarding the cost of providing school places for severely disabled children, Councillor Lister be censured.
- (ii) that, in relation to an insensitive and offensive comment he made at the same meeting, regarding expensive out of Borough placements for looked after children, Councillor Lister be censured and that, in addition, he be suspended from the Council for a period of one month, with immediate effect.

(3) That, further to (1) above, the Committee finds that there is no evidence to support an allegation that Councillor Lister made an inappropriate remark concerning the resuscitation and treatment of premature babies or babies born with severe health problems who survived in a severely disabled state, and therefore dismisses the allegation.

(4) That, in addition to its decision in this case, the Committee recommends that the Chair of the Standards Committee meet with the Council's Monitoring Officer to discuss issues relating the Council's procedure and practice for meetings, including minuting of contentious statements and the role of the chair and his/her responsibility to take prompt and decisive intervention when words are spoken in heat or unacceptable comments are made.

## Employee Code of Conduct

Standards Committee

Date: 24<sup>th</sup> July 2006

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**Author:** Cabinet Member for Corporate Affairs and  
Director, Human Resources

**Parish / Wards Affected:** None

### Purpose

- To seek Standards Committee's endorsement of a Code of Conduct for Swindon Borough Council employees.

### Recommendation

- Standards Committee is requested to approve the proposed Code of Conduct (Appendix 1) and authorise the Director, Human Resources to commence communication and roll-out in partnership with staff representative unions.

## 1. Reasons

- 1.1 Sound corporate governance demands that have strategies in place to ensure that we make our expectations of staff clear, and have fair and transparent ways of dealing with instances where behaviour falls below expectations. The most appropriate way for this to occur is through the adoption of a Code of Conduct.

## 2. Detail

- 2.1 As outlined in a previous paper to Standards Committee in March 2006, the Secretary of State has been considering the issue of a generic Code of Conduct for local government employees for some time. Discussions on the issue remain unresolved.
- 2.2 In the absence of national guidance, the Council determined that it would develop and implement a local Code of Conduct as part of our commitment to sound corporate governance, and demonstration of value for money. Standards Committee considered a draft version of the Code at its March meeting.
- 2.3 With Standards Committee's endorsement, the Director Human Resources initiated and has now concluded, a successful consultation process with local staff representative unions.
- 2.4 The attached Code incorporates the changes arising from the consultation process, including those relating to convictions and cautions raised by the Standards Committee. Further legal advice on this section of the Code was also sought. No matters of substance were changed as a result of the union consultation process.

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Further information on the subject of this report can be obtained from Rebecca McKenzie on *Direct Dial No. 3215* or Email [rmckenzie@swindon.gov.uk](mailto:rmckenzie@swindon.gov.uk).

# Employee Code of Conduct

Standards Committee

Date: 24<sup>th</sup> July 2006

2.5 The final draft, as presented, was endorsed by the Council's Staff Joint Committee at its meeting on 29<sup>th</sup> June 2006.

## Alternative Options

- None proposed.

## Risk Management

### *Financial and Procurement Implications*

- The need for an Employee Code of Conduct has been highlighted in previous Audit reports. By ensuring that all employees are familiar with its contents we will seek to minimise the Council's risk in relation to fraud, corruption and misadministration at the hand of its employees.

### *Legal / Human Rights Implications*

- The Code of Conduct will form an important part of an employee's contract of employment with the Council. It will apply to all staff, regardless of employment status. The Code will provide a transparent framework against which appropriate behaviour can be measured.

### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

- Having an Employee Code of Conduct will also contribute to the Council's Use of Resources Assessment under CPA and will contribute to the Council's achievement of Promise 14 – to be an employer of choice.

## Consultees

- Staff Joint Committee
- Staff representative trades unions
- Head of Internal Audit
- Human Resources officers representing Directorate and Group Directorate leadership teams.
- The Director of Finance (Section 151 Officer) and the Director of Law and Democratic Services are consulted on all reports.

## Background Papers and Appendices

- Appendix 1 – Code of Conduct

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Further information on the subject of this report can be obtained from Rebecca McKenzie on *Direct Dial No. 3215* or Email [rmckenzie@swindon.gov.uk](mailto:rmckenzie@swindon.gov.uk).



## **SWINDON BOROUGH COUNCIL CODE OF CONDUCT**

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## **1. Introduction**

### **1.1 Overview**

As an employee of the Council, you are involved in complex issues associated with the provision of community services. The way you carry out your duties must promote and maintain public confidence and trust in the work of the Council.

Although there is no single set of rules that can answer all ethical questions, the Council's Code of Conduct provides an ethical framework for the decisions, actions and behaviour of your work as a public official. If you find yourself in a situation where there is no clear agreement on what is 'the right thing to do', you can:

- refer to this Code of Conduct, Ethical Decision Making Guidance (Appendix 1) and/or any applicable guidelines, policies and procedures;
- discuss the situation with your line manager and use the Quick Guide to work through the issues;
- contact Human Resources, Audit or Law and Democratic Services for assistance.

This Code of Conduct will:

- help you to understand how you can fulfil your ethical obligations in performing your role;
- set clear expectations for your conduct as a public employee in the Council; and
- provide guidance to help you deal properly with ethical issues you may encounter in your work.

### **1.2 What is the Code of Conduct?**

This Code of Conduct is designed to provide guidance about what is expected from you in your daily work and in your dealings with elected members, colleagues and the public.

All Council employees must be familiar with the Code of Conduct. This document forms part of your contract of employment and you are required to comply with its contents. Failure to do so may result in disciplinary action, which could include dismissal.

For this reason, it is important that you read the WHOLE of this document and ask your manager or supervisor for clarification if there is anything in it that you don't understand and needs explaining. Once you have signed and returned the acceptance section of your written statement of employment particulars, it will be assumed that you understand its contents and agree to comply with your contract of employment and all the rules, policies, etc that it refers to.

If you have management responsibilities, you need to ensure that employees reporting to you have access to the Code and are given opportunities for training where appropriate.

The basis for this revised document is: the Local Government Act 2000; the working party comprising the Local Government Association, the Employers Organisation and the public sector unions; and the nationwide consultation co-ordinated by the Office of the Deputy Prime Minister (ODPM).

### **1.3 Who does the Code apply to?**

The Code applies to all employees and anyone acting as an employee of Swindon Borough Council. Inevitably, some of the issues covered will affect some employees more than others.

Although the Code does not directly apply to contractors, consultants, volunteers etc, the Council's continued association with these individuals and/or their organisations requires them to observe and comply with the Code. However, in some instances, compliance may be a condition of the contract between a third party and the Council, in which case their compliance with the Code would be binding. Elected Members have their own Code of Conduct, available on the Council's intranet site.

Breaches of the Code and standards set by the Council may result in disciplinary action. If you are unsure about any aspect of the Code, please raise it with your manager or supervisor at the earliest opportunity.

### **1.4 What can you expect from the Council?**

The Council exists to provide services to the public. All these services are delivered by people - the Council's employees. For the Council to run efficiently, it's vital that you understand your work and your responsibilities whilst at work. You also need to understand how your activities outside work may affect your ability to do your work during working hours.

In order to be clear about your responsibilities, the Council has various rules, procedures and policies that affect all employees. Some of these originate from European Law, others from UK Law implemented by Central Government, and others that are specific to the Council. There may also be very particular rules, requirements or codes that apply to your job or work area which you will have been told about before you start work. You will be advised should these rules, procedures etc change during your working life with the Council.

The Council has a responsibility to ensure that:

- You are clear about what is expected of you;
- You have a safe and healthy working environment
- You have a work environment that is free of discrimination, harassment or bullying
- You are offered relevant training and development opportunities
- You have the opportunity to choose to be represented by a Trade Union in appropriate circumstances as determined by Council policy

### **1.5 What does the Council expect from you?**

In summary, you are required to:

- Attend work in a condition where you are able to carry out your duties safely and effectively
- Act honestly
- Act with dignity and treat all others with dignity and respect
- Work in accordance with the terms and conditions of your contract of employment and job description
- Understand and apply the Council's rules, policies and procedures
- Be committed to delivering quality services to service users.
- Understand and act in accordance with the Council's vision and values, policy and procedures.

### **1.6 Where can you find details of the policies and standards that apply to you?**

The various sections of this document summarise the Council's key policies and procedures in respect of behaviour and the ways in which you are required to work.

If you are affected by any of the policies contained in this document or you are in any doubt about how they apply to you, you should always refer to the detailed rules or the policies and procedures in full in any of the following ways:

- You can ask for a paper copy from your line manager or supervisor.
- You can contact the HR First Response Team on extension 4343 and either ask for it to be emailed to you or for a paper copy
- Through your New Starter induction process
- You can find the information on the Council's Intranet site, in the Employment section (or wherever it is). If you are reading this code on the Intranet, where a relevant document is indicated as available on the Intranet, it can be found by simply clicking on the reference (hyperlink) shown (show example of how it will look).

## **1.7 What happens if the content of the Code changes?**

The Council will take every reasonable step to ensure that the Code of Conduct is kept up to date. The most up to date version will always be the one that is available on the Intranet site. Changes to the Code will be consulted on with Trade Unions and widely communicated.

## **2. Standards of Behaviour**

### **2.1 Workplace Behaviour and Personal Conduct**

You should treat colleagues, elected Members and members of the public with dignity and respect.

You should:

- Ensure that your conduct is not inappropriately discriminatory or harassing to others;
- Ensure your behaviour and performance meets workplace standards at any time that you are representing the Council or are likely to be identified or associated with your role as a public official (whether or not you are 'on duty' at the time).
- Make sure you are familiar with and follow the Council's policies on equal opportunities and the prevention of discrimination and harassment.
- Make reasonable efforts to develop and maintain appropriate skills in valuing diversity.

#### **For example:**

- Offensive, abusive, belittling or threatening behaviour directed at an individual or group is unacceptable conduct;
- It is not acceptable to restrict access to training or promotional opportunities on the basis of sex, sexual orientation, marital status, disability, race, colour, nationality or national origin, religion, age, address or union membership status.
- You should make any reasonable adjustment to enable a person with a disability to perform a job;
- When dealing with aggressive or agitated customers, you should deal with the person without aggression or bias;

- You must not engage in any behaviour of a sexual nature that is unwelcome as it is unacceptable and unlawful conduct. For example leers, suggestive notes or e-mails, innuendo, or touching.

## 2.2 Grievances

If you have a concern or grievance in relation to certain aspects of your employment then you can use the Grievance procedure. This provides an opportunity for you to formally lodge a grievance that has not been resolved through informal means. Any employee who submits a grievance in good faith will not suffer any adverse consequences as a result of submitting the grievance.

## 2.3 Reporting Absence

If you are unable to attend work for any reason, you must advise your manager as soon as possible. In the specific case of sickness absence, you must advise your manager **within half an hour of your normal start time (at least)** to enable your manager to make alternative arrangements for your work to be covered. Further information is available in the Council's Sickness Absence Policy.

## 2.4 Misconduct

The Code of Conduct guides and assists employees acting in good faith. If, in your decisions, actions or conduct you wilfully fail to comply with the standards outlined in the Code of Conduct, you will be guilty of misconduct and are likely to fall subject to disciplinary action, which could include dismissal.

## 2.5 Learning and Development

You are obliged to participate in relevant learning and development opportunities to develop the skills and knowledge necessary to perform your job and to enhance the delivery of services to the community.

You should seek feedback on your work performance and reasonably engage in any plans for improving your work performance.

## **2.6 Alcohol and Drugs**

You must not consume alcohol, use illicit drugs or other illegal substances while at work. You must also ensure that the use of any of them does not adversely affect the work performance and safety of yourself or others, and does not bring the Council into disrepute.

Similarly, if you are taking legally prescribed or over-the-counter drugs, you must ensure that their use does not adversely affect your work performance and the safety of yourself and others.

If you are a supervisor or manager, you will need to consider the options available for assisting employees who are required to take legally prescribed drugs and whose level of performance has been impaired. In these circumstances, a risk assessment should be undertaken with the assistance of the Occupational Health service.

Further guidance is available in the Council's Substance Misuse Policy and Guidance.

For example, if you are:

- On call, you should not consume alcohol in the event that you are recalled to work;
- Taking prescribed medication, you should ensure you are well aware of any side effects that may impair your ability to do your job.

## **2.7 Health, Safety and Well-Being**

All employees have a personal and legal responsibility under the Health and Safety at Work Act 1974 for themselves, colleagues and visitors to the Council's buildings and premises.

These responsibilities are identified in the Council's Health and Safety policy. In summary, the policy states that you must:

- look after the health and safety of yourself and others who may be affected by your actions or failure to carry out certain actions at work.
- Co-operate with your manager, attend training sessions, carry out reasonable instructions.



### **3. Protecting the Council and its Employees**

#### **3.1 Other Employment**

In some instances, your contract of employment may prevent you from undertaking other employment without the written permission of your manager. If this is the case, it will be detailed specifically in your written statement of particulars (what you may refer to as your 'contract').

It is important that you ensure that any additional employment does not conflict with the interests of the Council or affect your ability and credibility to do your job. You must also ensure that Council time and/or resources are not utilised in connection with any approved private employment.

If in doubt, the best thing to do is to discuss the circumstances with your manager. Further guidance is also available the Council's Additional Employment Policy.

#### **3.2 Use of Authority**

You should not use your official position, status, powers or authority to seek to improperly influence a decision or action.

You are expected to provide honest, impartial and comprehensive advice regardless of your personal assessment on a matter. If your personal views conflict with the performance of your official duties or if you believe that you cannot act impartially, you should contact your line manager and attempt to resolve the conflict.

When requested, you are expected to provide Members, the Chief Executive, line managers and co-workers with advice which is frank, independent, based on an accurate representation of the facts and as comprehensive as possible.

When exercising a discretionary power, you should ensure that the power is being used properly, impartially, equitably and is consistent with relevant legislation, delegations, procedures or guidelines. In exercising any power associated with your employment, you must ensure that you are either statutorily authorised to do so or that you have been delegated the power by a person with the necessary authority to issue the delegation.

For example, you should not:

- Use your status or position to obtain a transfer, promotion, advancement or appointment for yourself or another person or to improperly influence a selection process;
- Falsify or improperly edit or destroy official records;
- Seek to obtain a more favoured status for a funding application or for services to a particular stakeholder; or
- Instruct an employee to do any of the above.

### **3.3 Conduct Outside Working Time**

Generally, what you do outside work is your own concern, but you should avoid doing anything that might adversely affect the reputation of the Council or bring the Council into disrepute. In your official capacity (as a Council employee) or personal capacity, you must not allow your personal interests to conflict with the Council's requirements or use your position to improperly confer an advantage or disadvantage on any person. If you are not sure whether or how this may affect you in your Council role, speak to your manager. If you act contrary to a caution provided by your manager, you may find yourself subject to disciplinary action.

### **3.4 Criminal Charges and Convictions**

The Council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitation of Offenders Act applies and the rehabilitation period has expired. In some circumstances, Criminal Records Bureau checks are conducted on all successful applicants for certain positions in the Council.

Once you are an employee, you must notify the Council in writing if you are charged with any offence or if you are convicted of any offence. If you are charged with an offence, the notice must be given immediately after you are charged (ie. next working day). If you are convicted of any offence, the notification must be given immediately after you are convicted (ie. next working day). It should be noted that the term "conviction" includes a finding of guilt, regardless of whether or not a conviction is recorded. Failure to notify the Council in either case will constitute grounds for disciplinary action.

### **3.5 Use of Council Property, Facilities and Equipment**

Council facilities are to be used for the Council's business and for no other purpose unless you have your Director's (or nominee) permission beforehand.

Reasonable personal use of telephones, photocopiers, computers and faxes is allowed provided you have been authorised to do so by your manager. However, no private work may be carried out in the Council's time, or on the Council's premises or with the use of the Council's equipment.

The Council allows reasonable, non-official use of internet and email, as long as individual or service performance is not compromised or adversely affected as a result. Your line manager can provide you with clarification as to what constitutes reasonable, non-official use. However as a general rule, such use should be restricted to outside of core working hours, during lunch breaks etc.

While use of public resources for non-official purposes may be permitted under relevant Council guidelines, managers should ensure that the use:

- Does not impact on the performance of duties and tasks;
- Is not for any unacceptable or unlawful purpose;
- Is not related to any private commercial work or income-generating activity;
- Does not erode public confidence in the Council;
- Does not hinder the work of the Council;
- Does not expose the Council to unintended legal liabilities; and
- Is approved by the Chief Executive or delegate if any cost from the use of property or facilities is incurred, or income derived.

### **3.6 Dealing with the Council's Money**

All employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

Should you have responsibility for budgets and/or purchasing, you must ensure that you understand and comply with the Council's Standing Orders, Financial regulations etc.

When committing Council money, you must ensure that there is an approved budget for such expenditure and that the expenditure is within the limits that you are personally authorised to incur.

Employees involved in the tendering process and dealing with contractors must be clear on the separation of client and contractor roles within the Council.

You must declare any financial interest, whether direct or indirect that you or your partner may have in any contract or proposed contract with the Council. You should also consider declaring non-financial interests, for example, where you do voluntary work for an organisation in receipt of a grant from the Council. If you are in any doubt then you should make a declaration.

### **3.7 Conflict of Interest**

If a conflict occurs between your private interests and public duties you must resolve the conflict in favour of your public duties. You can refer to Council procedures or guidelines for advice in analysing, declaring and registering conflicts of interest.

You must advise your manager in writing of any personal or immediate family private interests that may give rise to a conflict of interest with your official duties, particularly if you are involved in making decisions affecting contracting, tendering or regulatory functions.

You should comply with any reasonable request from the Chief Executive to provide information relating to your personal interests or the interests of a dependent or spouse.

Examples of conflicts (or perceived conflicts) between personal interests and public duties that should be declared and in some cases avoided include:

- employees in positions that could influence or be perceived to influence, funding allocations, accepting appointments to executive or management positions in organisations that receive or seek to receive funding from the Council;
- as a purchasing officer liaising with a supplier who employs one of your close relatives;
- employees being contracted to provide services to the Council outside of their paid employment;
- generating work which involves travel to provide an opportunity to visit friends;
- a supervisor who is in a position to approve higher duties or provide other benefits to a subordinate where a close personal relationship exists (such as a partner or family member or close personal friend);
- involvement with an interview panel when a relationship exists with one of the applicants.

### **3.8 Gifts and Hospitality**

The Local Govt Act 1972 states that an employee shall not “under colour of his office or employment accept any fee or reward other than their proper remuneration (i.e. salary/pay)”

Small low value gifts such as flowers, a box of chocolates, diaries or similar items that may be used at work or shared with colleagues, may be accepted providing they are declared and recorded in the Register of Interests held by the Monitoring Officer. Other non-work related gifts (particularly drinks or hospitality etc) must not be accepted under any circumstances.

Should you be placed in a position where refusal of a gift would cause offence (this may be particularly relevant around Christmas and other festivals) it is suggested that consideration be given to passing the gift to the Mayor for use in relation to his/her charity.

If you are in any doubt, you should seek the guidance of the Council's Monitoring Officer, or the Head of Internal Audit before accepting any gifts or hospitality offered.

### **3.9 Sponsorship**

Where the Council sponsors an event or service, an employee, or any partner, spouse or relative must not benefit from the sponsorship. Employees must seek guidance from their manager if they are involved with any event or service that the Council proposes to sponsor.

### **3.10 Political, Professional and Trade Union Activity**

You should ensure that your right to engage in political, professional or trade union activities does not result in an actual or perceived conflict of interest with your official duties with the Council. You should ensure that you are able, and be seen to be able, to remain unbiased in the performance of those duties.

Council employees serve the Council as a whole and in carrying out your work you must be politically neutral, ensuring that individual rights of all elected Members are respected. In your capacity as a Council employee, you should not attend meetings of political groups unless specifically authorised by the Chief Executive or your Group Director. Such neutrality does not mean that you cannot be a member of a political party.

If you are a member of a profession, you are expected to uphold the standards of performance and conduct set by the relevant professional association and this Code of Conduct. However, it is noted that there can be exceptions to this where there is legislative authority to do so. If you believe a conflict exists between your official role and the standards of your profession, you must raise your concerns with your line manager.

If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the Council. Provisions relating to Facility Time to undertake official union roles are outlined in the Council's Facility Time Agreements.

### **3.11 Information Disclosure and Confidentiality**

As a Council employee, you may obtain information that has not been made public and is still confidential. You must never disclose information given in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it or unless you are required to by law.

You must not prevent another person from gaining access to information to which that person is entitled by law. You must not disclose confidential information for your own personal use or for use by anyone else known to you, or to the disadvantage or the discredit of the Council or anyone else.

You must always observe the provisions of the Data Protection Act 1998, the Freedom of Information Act 2000 and the Council's procedures for the release of personal information held about other employees or members of the public. Breach of confidentiality may be considered a disciplinary offence, which could result in dismissal.

When you leave your employment with the Council, you must still respect the confidentiality of official information that may have been available to you in the course of your duties and not use this information for private, commercial or political gain.

### **3.12 Intellectual Property**

Intellectual property is a legal term that refers to the rights and obligations received and granted, including copyright. Ownership of intellectual property is determined by considering the circumstances in which it was conceived and developed. The Council owns the copyright in material made by, or under its direction. Whether you are an employee or a contractor, copyright in material you produce in the course of your work

belongs to the Council, unless otherwise explicitly provided for in your contract of employment.

You are required to obtain permission from the Chief Executive or their delegate before publishing or disclosing any articles, processes or materials that you have produced as part of your employment.

You must ensure that consultants and contractors engaged to provide a service for the Council are aware that this work is the intellectual property of the Council.

### **3.13 Security**

You must visibly display your Identification Badge at all times while you are on any Council premises. All employees are required to challenge anyone in an employee and/or secure area of the Council's premises without either an Employee ID or Visitor's Badge. You must not allow any individual not displaying an ID Badge to follow ("tailgate") you into any secure area of the Council's premises.

If you come to work without your badge, you must report to the nearest Customer Services point to collect and use a temporary replacement. If you lose your ID Badge, you must report it immediately to your manager. You will be required to pay for a replacement.

If you have a visitor coming to see you at the Council's premises, you must follow the Visitor Monitoring arrangements.

### **3.14 Public Comment on Council Policy and Administration**

'Public comment' in this section includes public speaking engagements, comments on radio and television, letters to newspapers, and expressing views in books, journals or notices if it is expected that the comments will spread to the community at large.

All media requests for information and enquiries that relate to policy and procedures or operational activities must be referred to the Council's Communications Team. The Council procedure should be followed in these instances.

When making authorised public comment in an official capacity, you must:

- Ensure it is part of your official role;
- Not misrepresent the facts concerning Government or Council policy or administration;
- Comply with the confidential information provisions of the Data Protection Act; and



- Respect the confidentiality of information that has not been approved for release either by the Cabinet or through official Council channels.

In your capacity as a private citizen, you have the same rights as any other member of the public to openly discuss or comment on community and social issues. However, there are some circumstances where you may still need to take care in making such comments. For example, a situation could arise when public comment, although made in a private capacity, may appear to be an official comment on behalf of the Council. In such circumstances you should indicate clearly that your comment is made in a private capacity and does not represent the official view of the Council.

It is your responsibility to take all reasonable steps to ensure that any comment will be understood as representing your personal views as a private citizen. If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the Council.

If you are in any doubt, contact your line manager or the Director, Customer Communications (email link or phone number).

### **3.15 Internal Audit and Risk Management**

An effective internal audit function and risk management framework are important mechanisms for the Council to ensure effective internal control, good financial systems and management of risk. All employees have a responsibility to contribute to this work and, where an agreed action plan makes you personally responsible for progressing a particular action, it is your responsibility to ensure that it is undertaken within the agreed timescale.

## **4. Ways of Working**

### **4.1 Managerial Roles and Responsibilities**

As a manager, you have a responsibility to set a good example for employees through your own behaviour and attitudes, especially in relation to upholding the ethical principles, obligations and standards as set in this Code of Conduct. You should ensure that you understand your responsibilities under relevant financial, technological, information, human, knowledge/intellectual and physical asset management legislation,



policies and procedures, maintaining the principles of accountability, continuous improvement, fairness, flexibility and equity in the workplace.

You should ensure that employees understand performance standards expected from them and objectively assess their performance against these standards.

You must ensure that relevant legislation, delegations, and Council policies and procedures are accessible to all employees in your workgroup.

You should ensure that all employees who report to you are familiar with the requirements and objectives of their job, and have access to the information, training, supervision, feedback and work conditions needed to achieve them.

You should be honest and objective in reporting the skills and qualities of employees in testimonials; references and performance reports, ensuring your decisions can be substantiated against objective standards and indicators.

You are required to act promptly, thoroughly and fairly when responding to, or investigating grievances and reports of breaches of the Code of Conduct.

To avoid any accusation of bias, you must not be involved in the appointment of any applicant if you are a relative or friend to them. Similarly, you must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner or friend. If you are in any doubt, you should discuss the matter with your manager.

You should ensure your leadership and management style:

- Is based on open, honest and thorough communication;
- Provides for optimum working conditions within the resources available to you;
- Supports positive performance management processes, including access to related learning and development opportunities for employees; and
- Supports the right of employees to engage in open dialogue with you, and to pursue relevant conflict and grievance management options when issues arise.

## **4.2 Following Instructions**

You:

- Are expected to follow all reasonable and lawful instructions related to your work given by a person with the authority to issue such instructions;
- Should accept that you may not personally agree with all decisions made by your manager;
- May refuse to comply with an instruction that appears to be unlawful and report the matter to an appropriate senior officer;
- Should tell the person giving an unreasonable instruction that the instruction is, in your view, unreasonable and allow them the opportunity to respond. In the interim, you are generally required to carry out the instruction unless:
  - there is a danger to a person's health and safety; or
  - a conflict of interest may exist; or
  - it does not comply with Council policy and practice.

Managers must be able to justify their instructions and decisions in line with their delegations, authority, and Council policies and procedures, and be open and respond promptly to constructive questions.

If you object to an instruction on genuine conscientious grounds, or if there may be a perceived conflict with a professional code of ethics, you should attempt to negotiate and resolve the matter with your manager to achieve a mutually acceptable solution. If a local resolution is unable to be reached, refer the issue to your Director or Group Director.

## **4.3 Working with Councillors**

Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and elected Members can damage the relationship and cause embarrassment to other employees. Such familiarity should be avoided. The Council has agreed a Member/Officer Protocol that councillors and officers must comply with. Councillors have their own Code of Conduct that they are also required to comply with.

## **4.4 Communication with Senior Officers and Members**

When required, you are expected to provide Members, the Chief Executive or other line managers with advice that is frank, independent, based on accurate and comprehensive representation of the facts. This includes setting out the advantages, disadvantages, costs and consequences of the available options and where appropriate, recommending a course of action.

When communicating directly with Members on issues affecting you as a private citizen, you should ensure your actions comply with the obligations relating to public comment.

As a private citizen you have the right to communicate directly with a Member of Parliament on any issue affecting you as a private citizen.

#### **4.5 Working with Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and should provide courteous, efficient and impartial service delivery to all groups and individuals within the community.

#### **4.6 Working with Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known in writing to the Director of Procurement and copied to the Director of Law and Democratic Services. Orders and contracts must be awarded in accordance with the Council's Standing Orders and procurement process. No special favour in the tendering process must be shown to businesses run by, for example, friends, partners, or relatives. No part of the local community must be discriminated against.

#### **4.7 Working Safely**

Any activity that presents a significant risk to the health, safety or well-being of an employee or other person must have been subject to a written risk assessment. This is a tool which managers must use to determine the safest and best way of carrying out the work, including appropriate training, personal protective equipment etc. Appropriate safety controls should all be summarised on the risk assessment or safe system of work procedure and provided to the relevant employees.

Employees must follow the resulting safe system of work to ensure their safety and that of others is not put at risk. If these are not in place, speak to your manager in the first instance or your Health and Safety adviser.

***For example, you must:***

- Comply with the instructions given for workplace health and safety at the workplace by the Council;

- Use personal protective equipment if the equipment is provided and you have been properly instructed to use it;
- Not wilfully or recklessly interfere with or misuse anything provided for workplace health and safety at the workplace;
- Not wilfully place at risk the health and safety of any person at the workplace;
- Not wilfully injure yourself;
- Report to your supervisor any workplace hazards that cannot be immediately rectified;
- Ensure that you comply in practice with any guidelines given for performing manual handling tasks; and
- Take all reasonable steps to ensure that employees you supervise are following guidelines and have access to job-specific training.

#### **4.8 Dress Standards**

Your dress style must reflect appropriate workplace health, safety and security considerations applicable to your job and work environment.

### **5. Reporting Breaches of the Code and Whistleblowing**

If you are concerned about any practice you see in the Council which you think conflicts with the Code of Conduct, you should obtain advice from your manager, your department head, Trade Union representative, or any other appropriate person as identified in the Council's policies above (BE SPECIFIC?).

The Public Interests Disclosures Act 1998 and the Council's Disclosure (Whistleblowing) Policy can provide safeguards for employees and public officials who disclose unlawful and improper conduct including breaches of this Code.

Disclosures might be about:

- Official misconduct; or
- Incorrect administration; or
- Negligent or improper management affecting public funds.

Public interest disclosures should be made directly to the Monitoring Officer, who is the Director, Law and Democratic Services, or to the Head of Internal Audit on the confidential whistleblowing line 01793 464603.

Any suspicion of money laundering must be reported in the first instance to the Director of Finance.

## **MAKING AN ETHICAL DECISION – A QUICK GUIDE**

Not every ethical dilemma can be detailed in a Code of Conduct. This is because every situation is different. To help you assess a situation, a useful rule is – **when in doubt, talk about it**. You can talk with your manager, a colleague, trade union representative, or an adviser from Human Resources or Law and Democratic Services.

It is important to analyse all the relevant facts and circumstances before deciding what is the ethical thing to do.

### **1. What is the problem? – describe the situation**

- What is happening and who is involved?
- Who is affected?
- What are the job expectations?
- What are the actual or foreseeable consequences and impact?
- What guidance is there in legislation and the Code of Conduct?
- Which Council policy or procedure applies?
- Why do I feel uncomfortable with this?

### **2. Is it an ethical problem? – apply the Code of Conduct**

- What ethics obligations and standards apply?
- Would the public see the proposed conduct, decision or advice as fair, honest and appropriate?
- Is the public's confidence in the Council at risk?
- Are the values of natural justice, accountability and reasonableness met?
- Has the Council's duty of care been compromised?
- Are my personal and professional beliefs and values compromised?

### **3. What action should be taken? – identify options**

- Do I have the power or authority to deal with the issue?
- Who else should I talk to?
- What options are available that meet the relevant ethics principles?
- What is consistent with current policy and practice?
- What are the pros and cons of each option?
- How would the public view these options?
- What feels right to me as a professional public official?

### **4. What is the most ethical option? – choose a course of action**

- Is the decision fair and equitable as outlined in the ethics principles?
- Does it provide a reasonable balance between competing interests and values?
- Is it consistent with relevant legislation, policy and practice?
- Can the decision be justified to Members and the public?

- Can the decision be easily explained?
- Is it easy to document the key issues and explain the reasons for the decision?
- Do I feel comfortable?

**5. What changes may need to occur? – follow up**

- Is this ethical issue an isolated event or does it represent a wider Council issue?
- Who needs to be advised and how?
- What do I need to do to prevent the situation occurring again?



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## Annual Report and Work Programme

Standards Committee

Date: 24 July 2006

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**Author:** Director of Law and Democratic Services (Monitoring Officer)

**Wards Affected:** All

### **Purpose**

- To ask the Committee to agree its Annual Report for 2005/06 and Work Programme for 2006/07.

### **Recommendation**

- That the Committee considers and agrees its Annual Report for 2005/06 and forwards it to Full Council for information.
- That the Committee considers and agrees its Work Programme for 2006/07.

## **1. Reasons**

- 1.1 To agree the review of the year and a work programme for the coming year.

## **2. Detail**

### *Standards Committee Annual Report*

- 2.1 The Standards Committee each year prepares an Annual Report summarising the work of the Committee and highlighting the various aspects of the Ethical Framework considered by the Committee. This is presented at Full Council, in order to inform Members of the role played by the Committee in promoting and maintaining high standards of conduct, involve all Members in the work of the Committee, and continue to raise the profile of the ethical framework for Members.
- 2.2 The draft of the Annual Report for 2005/06 is attached at Appendix '1'. The Committee is asked to consider if this accurately reflects its work for the year, and to make any amendments. The Chair of the Standards Committee will add a foreword to the Report. Once agreed the Report will be presented to the next Full Council meeting.

### *Work Programme*

- 2.3 An outline work programme for the Committee for 2006/2007 is attached at Appendix '2' for discussion and approval.

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Further information on the subject of this report can be obtained from Stephen Taylor on Direct Dial on 01793 463012 or Email [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Annual Report and Work Programme

Standards Committee

Date: 24 July 2006

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## Alternative Options

- It is good practice to make an Annual report on the work of the Committee, and to agree a work programme for the ensuing year.

## Risk Management

### *Financial and Procurement Implications*

- None

### *Legal / Human Rights Implications*

- None

### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

- Monitoring of issues of probity in the Council underpins the Council's plans and policies and to the delivery of the 2010 objectives.

## Consultees

- Deputy Chief Executive
- Group Director, Resources
- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## Background Papers and Appendices

- Appendix 1 – Draft Annual Report 2005/06
- Appendix 2 – Draft Work Programme 2006/07

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Further information on the subject of this report can be obtained from Stephen Taylor on Direct Dial on 01793 463012 or Email [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

Swindon Borough Council

**Annual Report of the Standards Committee**

May 2005 to April 2006

## **INTRODUCTION BY THE CHAIR**

To be inserted

Keith Carby – Chair of Standards Committee.

## **Background to the Standards Committee**

The purpose of the Standards Committee is to promote and maintain high standards of conduct by Members of the Borough Council and Parish Councils in Swindon, and to assist them to observe their Code of Conduct. The Committee seeks to raise the profile of probity and conduct both within and outside the Council. It does this by advising on the adoption and monitoring of relevant codes of conduct and behaviour, oversees the Council's anti-fraud strategy and whistleblowing procedures, monitoring complaints relating to breaches of those codes and procedures, and recommending training to Officers, Members and Parish Councillors.

In addition it has powers to hear cases of breaches of the Member's Code of Conduct referred by the Standards Board for England ('the Standards Board'), to determine whether a breach has been committed and impose appropriate sanctions. The Committee is supported by the Director of Law and Democratic Services (Monitoring Officer) and a Committee Officer.

The Committee was first established in February 2000, prior to the requirement for Councils to establish a Standards Committee as set out in the Relevant Authorities (Standards Committees) Regulations 2001, which came into force in August 2001. This has enabled a firm foundation of work to be laid. The work of the Standards Committee was commended by the Council's External Auditors in the review of the Council's new political arrangements (*"Democratic Renewal: The Modernisation of Local Government"*, April 2002) and described as 'proactive and robust' in the Corporate Governance Inspection of December 2004.

## Membership of the Committee

Since being established in 2000, the Standards Committee has comprised 3 independent members (appointed following public advertisement), a parish council representative, and 3 elected Councillors.

The initial 3 independent members completed 4-year terms of office in May 2004, and the Committee decided to ensure the experience and expertise of independent members was maintained in the Committee by starting a rolling programme of appointment of independent members rather than have all the members retire at the same time. Accordingly, independent members were appointed by the Council for terms of 4 years, 3 years and 2 years.

During 2005 / 2006 the Membership was as set out below:

Independent Members	<p>Mr Keith Carby (Chair of the Standards Committee) (appointed until 2008).</p> <p>Mr Trevor Davies (Vice-Chair of Standards Committee) (appointed until 2007).</p> <p>Mr Paul Morris (appointed until 2006*).</p>
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Parish Council Representative	<p>Mr Mike Compton (Blunsdon Parish Council) has continued to serve the Committee during 2005/06 as a voting representative for the parish councils and was nominated by the Swindon Area Committee of Parish Councils. Mr Richard Hailstone (Haydon Wick Parish Council) has been appointed as his deputy.</p>
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Elected Members	<p>Councillors Melanie Duff, Maurice Fanning and Mike Every served as elected Member representatives during 2005 / 2006.</p>
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\*As Paul Morris' term ended in May 2006, the appointment process was commenced in February 2006 and following public advertisement and publicity in

the local newspaper, Mr Paul Morris was reappointed as an independent Member from May 2006 for a further four year term.

## **WORK PROGRAMME FOR 2005/2006**

The Standards Committee met five times between May 2005 and April 2006 and the following is a summary of the Committee's activities:

### **Ethical Audit**

At its meeting in July 2005, the Committee reviewed the work of the Ethical Audit Working Group, and agreed a number of actions arising out of the its deliberations.

In particular, the Committee reviewed the Working Group's desktop audit of the authority and local parishes against the criteria set out in a Ethical Audit Toolkit prepared by the IDeA (Improvement and Development Agency). The Committee confirmed that this demonstrated compliance with all the elements required for the ethical framework and all the necessary processes and procedures were in place. Some areas for improvement were identified and key actions were agreed, which have been implemented:

- **Improving Ethical Training for Officers** - Ethical Governance Issues have been included in the Month 1 checklist for the Induction Process for New Starters, to ensure all officers are briefed on these matters at the earlier opportunity.
- **Training for Parish Councils** – The Monitoring Officer has continued to maintain strong links with Parish Councils and Parish Clerks. He has provided quarterly briefings to Parish Clerks and has offered ethical training workshops to Parish Councils. This is on ongoing process.
- **Members Training** – It was suggested that all Members attending courses should report back via the Members' Bulletin, to share good practice and knowledge, and this has been put in place.

## **Codes and Protocols**

A review of all the Council's Codes of Conduct and Protocols falling within the Committee's remit was completed in April 2005, including the Protocol on Member/Officer relations; Planning Code of Conduct; Guidance on dealing with the Media; and the Monitoring Officer Protocol.

At its meeting in September 2004, the Committee had been informed of the consultation by the Office of the Deputy Prime Minister on 'A Model Code of Conduct for Local Government Employees', and comments from the Standards Committee were incorporated in the response to the consultation submitted in November 2004.

As no significant progress had yet been made nationally for the development of a Code, and it was felt it was important for sound corporate governance, the Director of Human Resources consulted the Committee on a revised Code of Conduct for Swindon Borough Council employees. The Committee reviewed and commented on the Code, and it has been subject to consultation with staff representatives and other interested parties. The Code is due to be reported back to the Committee for final approval in July 2006.

## **Review of Model Code of Conduct for Members**

The Office of the Deputy Prime Minister (ODPM) issued a discussion document in December 2005 entitled 'Standards of Conduct in English Local Government: the Future'. This focussed upon:

- The report of the Committee on Standards in Public Life (the Graham Committee) on the role and effectiveness of the Standards Board;
- Comments arising out of the Standards Board for England's 'Code Review', on which the Committee has submitted comments in June 2005.
- A proposed Model Code for Local Government Employees; and
- The regulatory framework dealing with political assistants.



The discussion paper proposed a future integrated regime enabling the Members Code of the Conduct, the Standards Board and the local Standards Committees to work effectively together, including a move to move locally based decision making, improving the operation and effectiveness of local Standards Committees, whilst retaining a central strategic and investigatory role for the Standards Committee.

The Committee reviewed the proposals at its meeting in January 2006 and provided detailed comment on the specifics of the proposed Code and Structure, whilst supporting the general move to place a greater emphasis on local determinations and responsibilities of the Standards Committee.

### **Local Determination Regulations**

The Committee adopted new procedures in November 2005 for the Local Investigation of Referred Complaints under the ' Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004. The Committee had previously adopted a procedure for the Committee to hear complaints referred to it by the Standards Board for England. The new procedure set out the process by which the Monitoring Officer would investigate a complaint referred to him by the Standards Board for England.

### **Complaints to the Standards Board for England**

The Standards Committee has received regular updates during the year relating to complaints against Councillors and Parish Councillors, which had been made to the Standards Board for England.

During the year, the Committee has been notified of two complaints to the Standards Board against Swindon Borough Councillors and two complaints against Parish Councillors that they have failed to comply with the Members Code of Conduct. One complaint against three Councillors and one complaint against a parish councillor resulted in decisions by the Standards Board that the

matters need not be investigated. One complaint in respect of a Parish Councillor is still awaiting investigation.

The fourth complaint against a Councillor (Councillor Lister) was formally referred in September 2005 by the Standards Committee to the Standards Board for England for investigation, and subsequently referred back by the Standards Board to the Monitoring Officer for local investigation and for local determination by the Standards Committee. A Standards Committee hearing was held on 31<sup>st</sup> May 2006 resulting in the Councillor being suspended for one month.

### **Breach of Member / Officer Protocol**

The Committee has been kept informed of complaints received by the Monitoring Officer under the Member / Officer Protocol.

### **Whistleblowing Policy**

Throughout the year, the Standards Committee has continued to monitor complaints received against Officers under the Council's Whistleblowing policy.

During 2005/2006, six complaints were reported near the end of the year, which are still being investigated.

The Committee has continued to promote the whistleblowing and anti-fraud and corruption policy throughout the year. At its meeting in September 2005 the Committee agreed that the Council renew its subscription to the 'Public Concern at Work Helpline' with effect from January 2006 for a further three years, to continue to provide a formal method of confidential reporting for staff who do not feel that they can raise issues directly with the Council.

Members of the Council have received copies of the new Fraud Bulletin during the year, which is produced by the Head of Internal Audit. A message from the Chair of Standards Committee promoting an Anti-Fraud culture in the Council was included in the November 2005 edition, and reference to Whistleblowing procedures was included in the March 2006 edition.

The Committee received at its March 2006 meeting a report from the Head of Internal Audit setting out the results of all Whistleblowing complaints received during the operation of the policy. In the process of reviewing the issues, the Committee sought and received assurances from the Head of Internal Audit and Monitoring Officer that no whistleblower should be disadvantaged in their employment as a result of making an allegation, and asked for any patterns in the reporting of issues be advised to them.

The work of the Standards Committee and the operation of the Whistleblowing Policy was promoted to staff in the May edition of the Council's Core Brief. This has ensured that staff are aware of the Whistleblowing Policy and that they should contact the Monitoring Officer if there has been any breach of standards of conduct expected of Members or Officers.

The intranet and internet are used to publicise to staff and the public the various codes and practices and work done by the Standards Committee and the Monitoring Officer in setting the standards of conduct expected from members and staff.

### **Complaints on Ethical Standards**

The Council monitors complaints received from members of the public in relation to its operation and decision-making. No complaints were received during the 2005/2006 Municipal Year that related to the ethical standards of the authority.

## **Parish Councils**

Work has been ongoing with parish and town councils to help them promote and maintain ethical standards in their Councils, and offering the Standards Committee's assistance wherever required. This work is assisted by the presence of Mr Mike Compton (and his deputy, Richard Hailstone) as a member of the Standards Committee.

Training sessions have been offered to Parish Councils on the principles of the Members Code of Conduct and its interpretation in sample cases.

Quarterly meetings of Parish Clerks in the Borough are chaired by the Monitoring officer and the Ethical Framework is a standing item on the agenda, and any issues arising are reported back to the Standards Committee. The Monitoring Officer has asked Parish Clerks to keep him informed of steps each Parish Council is taking to promote and maintain high standards of conduct. In addition quarterly liaison meetings are held between Parish Councillors and representatives of the Borough Council to promote and maintain the Borough / Parish Charter, which is an important part of decision-making and proper consultation between the Borough and the Parishes.

## **Independent Members Network**

The Independent Members Network Forum for Wiltshire, Oxfordshire and Berkshire was first convened in October 2004, and has met on a bi-annual basis since then, including meetings in October 2005 and April 2006. The independent members who have attended have found the forum to be valuable in sharing experience with other lay members and promoting best practice. Mr Trevor Davis has recently been appointed by the Forum to represent it on the national Independent Member Forum Co-ordinator's Meetings, convened by the Standards Board for England.

## **Declarations of Interest**

No applications were received from Borough or Parish Councillors during this year for dispensations in respect of declarations of interest.

Following the resolution of the Committee in September 2004, the public register of Councillors' interests have continued to be made available on the Council's website. The Committee have continued to support this in the interests of demonstrating openness and transparency of conduct that all registers were made available in this way. Regular reminders are given to members of the need to keep the register updated, and the Monitoring Officer provides advice to Members in relation to their involvement in the decision making process in terms of declaration of interests or other aspects of the Code of Conduct.

## **The work of the Standards Board for England**

The Standards Committee has been kept informed of the work of the Standards Board throughout the year, and copies of the latest Standards Board Bulletin and Case Reviews are made available at each Committee meeting. The Committee is advised by the Monitoring Officer on key issues arising from Standards Board publications and the implications for its work and for the conduct of the Council.

## **Training**

Members of the Standards Committee have undertaken training during the year. The Monitoring Officer gave an induction presentation on the Members Code of Conduct and the work of the Standards Committee at the July 2005 meeting, for the benefit of new Committee members. Members of the Standards Committee have received specific training in January 2006 and May 2006 on Local Determination of Code of Conduct Complaints, in particular in relation to the hearings procedure.

During the year, training sessions for councillors and officers were carried out by the Monitoring Officer on ethical standards and corporate governance issues.

The Induction for New Members included a specific session on standards of conduct and probity in decision-making process, and further sessions have been arranged, open to all Members, on ethical training issues. All Councillors are kept informed of developments in the Ethical Framework either by reference to Best Practice or developing case law via receipt of the Standards Committee Agenda, and are reminded of requirements to update register of interest and maintain high ethical standards through the Members Bulletin.

## **SUMMARY**

The Standards Committee has had a very active and successful year and has continued to promote and monitor ethical standards in the authority and local parish Councils. The role of the Committee has continued to develop during the year, and it is expected that the Committee will take a robust role during the coming year in actively promoting and enhancing the Council's openness, accountability and probity.

There have been few instances of impropriety during 2005/06, but where these have occurred they have been dealt with pro-actively and robustly by the Monitoring Officer and Standards Committee.

**Standards Committee**  
**Draft Work Programme for 2006 / 2007**

The following work programme is proposed:

<u>Meeting</u>	<u>Agenda Item</u>
24 July 2006	<ul style="list-style-type: none"> <li>• Adopt Employee Code of Conduct</li> <li>• Consider draft Annual Report for 2005/06</li> <li>• Agree future Work Programme</li> </ul>
16-17 October 2006	Standards Board Annual Conference
23 October 2006	<ul style="list-style-type: none"> <li>• Consider consultation on CIPFA (The Chartered Institute of Public Finance and Accountancy)/ SOLACE (the Society of Local Authority Chief Executives) 'Good Governance in Local Government: A Framework'.</li> <li>• Review Media Guidelines for Members</li> <li>• Update Procedures for Hearings</li> <li>• Update Anti-Fraud Strategy and Whistleblowing Policy.</li> </ul>
23 January 2007	<ul style="list-style-type: none"> <li>• Review Ethical Audit.</li> </ul>
19 March 2007	<ul style="list-style-type: none"> <li>• Review Council Codes and Protocols.</li> </ul>

Regular Items:	<ul style="list-style-type: none"> <li>• Ethical Update Report</li> <li>• Monitor complaints under the Council's Anti-Fraud and Corruption Strategy and Whistleblowing Policy.</li> <li>• Receive updates on complaints against Councillors received by the Standards Board for England and Wales.</li> <li>• Receive updates on continuing close work with Parish Councils on Ethical Framework Issues.</li> <li>• Facilitate training as required for Officers, Councillors and Parish Councillors in respect of ethical framework issues.</li> </ul>
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Other reports and Meetings as required:	<ul style="list-style-type: none"> <li>• Allegations referred by the Standards Board for England for local determination.</li> <li>• Requests for dispensations.</li> <li>• Urgent ethical and probity issues as they arise.</li> <li>• Responding to Government Guidance, Regulations and Consultations as issued.</li> </ul>
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## Ethical Framework Update

Standards Committee

Date: 24 July 2006

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**Author:** Director of Law and Democratic Services (Monitoring Officer)

**Wards Affected:** All

### Purpose

- To provide an update on various matters related to the Ethical Framework.

### Recommendation

- That the Ethical Framework update be noted.
- That Members of the Committee determine whether it is appropriate to support the work of the Association of Independent Members of Standards Committees in England, and determine what form any support should take.
- That Members of the Committee be asked to advise the Monitoring Officer if they wish to attend the Standards Board Annual Conference on 16<sup>th</sup> and 17<sup>th</sup> October.
- That the date of the next meeting of the Standards Committee be moved to 23<sup>rd</sup> October so that those who wish to attend the Standards Board Conference may do so.

### 1. Reasons

- 1.1 To keep the Standards Committee informed of issues of probity in the Council.

### 2. Detail

#### *Promotion of Ethical Standards*

- 2.1 The Monitoring Officer included in the Team Brief for May 2006 to all staff an outline of the work of the Standards Committee and the Monitoring Officer, and reminded staff of the Whistleblowing Policy.
- 2.2 Induction Training for new members of the Council in May included a session on standards of conduct and probity in the decision making process, and a further session, open to all members, is scheduled for a 7<sup>th</sup> September 2006.

#### *Standards Board Bulletins*

- 2.3 The Standards Board Bulletins for April 2006 (Issue 28) and May 2006 (Issue 29) are attached at Appendix '1' and '2'. The Monitoring Officer will highlight key areas of interest at the meeting.

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Further information on the subject of this report can be obtained from Stephen Taylor on Direct Dial on 01793 463012 or Email [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

## Ethical Framework Update

Standards Committee

Date: 24 July 2006

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### *Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum*

- 2.4 A meeting of the Forum hosted by the Royal Berkshire Fire Authority took place at Bracknell Forest Borough Council on Friday 21<sup>st</sup> April. A copy of the minutes of the meeting are attached at Appendix '3'. Mr Trevor Davis attended and will report further on any key issues that were discussed.
- 2.5 The next meeting of the Forum is scheduled for 11am on Friday 27<sup>th</sup> October 2006 at County Hall, Trowbridge.

### *Association of Independent Members of Standards Committees in England (AIMSce)*

- 2.6 An association for Independent Members of Standards Committees (AIMSce) has recently been established. The Inaugural meeting of the Association will take place in Birmingham on 16<sup>th</sup> October, at the annual Standards Conference. A letter outlining the purpose of the association and an agenda for the first meeting is attached at Appendix '4'.
- 2.7 The letter proposes that Monitoring Officers recognise and support the work of AIMSce, and provide Independent Members with allowance to join and maintain membership of AIMSce, and provide the association with a grant to assist with set up costs for the association.
- 2.8 The Council has recently amended its Schemes of Allowances, and now includes an allowance for Independent Members and Chair of the Standards Committee. It is anticipated that if Independent Members wished to be part of AIMSce that the membership fees should be drawn from this allowance.
- 2.9 The initial view of many of the Monitoring Officers in this region is that each authority should give the necessary support to the Independent Members of its Standards Committee and that a National Association of Independent Members would lead to unnecessary bureaucracy. There was support for the continuation of the existing informal regional meetings of Independent Members and, if necessary, support from the Standards Board for England being provided at such meetings.
- 2.10 The view of the Committee is sought whether further assistance for the set up of the association is appropriate.

### *Annual Standards Board Conference*

- 2.11 The next Annual Standards Board Conference in Birmingham will be held on 16<sup>th</sup> and 17<sup>th</sup> October 2006, and will be entitled: 'Bridging the gap:'

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Further information on the subject of this report can be obtained from Stephen Taylor on Direct Dial on 01793 463012 or Email [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Ethical Framework Update

Standards Committee

Date: 24 July 2006

towards effective local regulation'. Members are asked to advise the Monitoring Officer if they wish to attend the conference. Due to the date of the conference, it will be necessary to move the date of the next Standards Committee. A revised date of 23<sup>rd</sup> October 2006 is proposed.

## Alternative Options

- None

## Risk Management

### *Financial and Procurement Implications*

- Independent Members and Chair of the Standards Committee are entitled to receive allowances under the Council's Allowance Scheme. It is anticipated that if Independent Members wished to be part of AIMSce that membership fees should be drawn from this allowance. If the Committee wished to provide support for the set up costs of AIMSce this would need funding to be identified.

### *Legal / Human Rights Implications*

- None

### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

- Monitoring of issues of probity in the Council underpins the Council's plans and policies and to the delivery of the 2010 objectives.

## Consultees

- Deputy Chief Executive
- Group Director, Resources
- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports).

## Background Papers and Appendices

- Appendix 1 – Standards Board Bulletin Issue 28 (April 2006)
- Appendix 2 – Standards Board Bulletin Issue 29 (May 2006)
- Appendix 3 - Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum – 21<sup>st</sup> April 2006.
- Appendix 4 - Association of Independent Members of Standards Committees in England (AIMSce) Letter and Meeting Agenda

Further information on the subject of this report can be obtained from Stephen Taylor on Direct Dial on 01793 463012 or Email [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

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- 5 Islington**  
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- 5 Parish representatives**  
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Bookings now open
- 8 Access to information**  
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Welcome to the latest edition of our *bulletin*, with news and guidance from the Standards Board for England.

In the past, we sent separate newsletters to monitoring officers and standards committee chairs. However, feedback has suggested to us that the two newsletters should be combined into one, and so this is the first joint edition of the *bulletin* which is being sent to everyone who has requested it.

We will welcome all views on the new format, so do let us know what you think of it.

**David Prince, Chief Executive**

## The Code isn't a gag

There has been some confusion about the Code in the recent months. Some members appear to be unsure about the rules on declaring interests, particularly over whether they should remain in the room when matters in which they have an interest are being discussed. So the aim of this article is to clarify that issue.

The nub of the issue revolves around whether the subject under discussion is prejudicial. Not all matters in which a councillor may have a personal interest are necessarily prejudicial, although they should always be declared. If you decide that the matter is not prejudicial, you may stay in the meeting and speak and vote on it. It is only when the matter is prejudicial that you will need to leave the room while it is under discussion.

So how do you decide whether a matter in which you have a personal interest is also prejudicial?

### A common scenario

A frequently asked question is about whether a personal and prejudicial interest arises if the matter being considered relates to the area in which the member lives or the ward that they represent.

The answer is as follows:

In some cases, members will have a personal interest because the matter may have some impact upon the residents of that area of the ward to a greater extent than others living in the area of the authority. However, the interest will only be prejudicial if it also has a significant impact upon themselves, or their friends or relatives or any of the other categories set out in paragraph 8(1)(a) to (d) of the Code, so that a reasonable member of the public would consider that their judgment of the public interest was prejudiced.

For instance, if a planning application is being considered for a piece of land in a member's ward that is situated directly opposite that member's property, there is likely to be a prejudicial interest.

But there will be many situations when you have a personal interest that is not prejudicial. So at those times, you will be able to fully participate and vote in the meetings, so long as you are seen to keep an open mind about the matter under discussion.

In our proposals to the Office of the Deputy Prime Minister for changes to the Code, we highlighted this area as one that needed particular reform. We feel that the situation needs greater clarity and that members should be ensured that they are able to advocate on behalf of those they represent.

We wish to see the Code make it crystal clear that, in the normal course of events, a member who merely has an interest shared with the community or an organisation they represent should be able to take part in a meeting. It would only be where a decision is being made and they would get a clear advantage from that decision that they should be excluded from taking part.

However, if you have already made up your mind about a particular decision before hearing all the arguments surrounding it, although this may not necessarily be a prejudicial interest, you may be advised not to take part in the decision-making process.

### Business interests

Another issue that brings members into non-compliance with the Code is when he or she has a conflict of interest with regard to their business dealings, and does not declare it.

We advise members to exercise great care in such situations, particularly those working in the law or accounting.

While it is possible to put a barrier in place to separate their role as a member and their involvement in a firm or business that has dealings with the council, issues can arise when a member's firm or business obtains income or profit from work involving the council.

So members need to guard against ethical as well as financial conflicts of interest — and they also need to be seen to do this, so that their constituents can feel reassured on the subject.

This means that if you own a company and a major part of its work is council-related, you may want to rethink whether you can play a meaningful role in work of the authority.

It is important to take particular care in attending meetings, or in fulfilling your role as a member, that you do not use information and access to officers to further your own business interests.

For instance, you should give out your authority's business card, rather than your professional business one, when involved in authority business. In addition, you should not advertise the fact that you are a member when on your firm's business.

For further guidance on declaring interests, follow this link:



[www.standardsboard.co.uk/TheCodeofConduct/  
FrequentlyaskedquestionsabouttheCode/  
Declaringinterests/](http://www.standardsboard.co.uk/TheCodeofConduct/FrequentlyaskedquestionsabouttheCode/Declaringinterests/)

### New — *The Case Alert* to be launched next month

**Members and officers looking for best practice guidance on hearings will welcome next month's launch of *The Case Alert*.**

*The Case Alert* will provide a regular in-depth analysis of significant cases and can be emailed directly to you.

These regular bulletins will keep you informed of noteworthy decisions by standards committees, the Adjudication Panel for England and the High Court, particularly where they shed new light on our understanding of the Code of Conduct.

The reports of cases in *The Case Alert* will be more detailed than the short case summaries on our website, and will build on the work in the annual *Case Review* in highlighting lessons from significant cases.

*The Case Alert* should be especially useful to monitoring officers and standards committees, but will also be of interest to anybody involved in working with the Code of Conduct.

So if you are interested in receiving *The Case Alert*, please send a message to:  
[case.alert@standardsboard.co.uk](mailto:case.alert@standardsboard.co.uk)

## Reports following local investigations

**As we move towards becoming a more strategic regulator, matters regarding local investigations are bound to be raised for guidance. So in this article, we provide some guidance on the final reports that follow local investigations.**

### Providing final reports to ethical standards officers

We would like you to send us final reports following local investigations, as they will help us in our new strategic role.

From those reports, we will be able to look into the processes used when conducting a local investigation, as well as the quality of the hearings held by standards committees. On top of that, we will be able to build a knowledge base from which we hope to be able to pick out examples of good practice to feed back to all authorities.

So, for those reasons, we are asking standards committees to send copies of these final reports to the ethical standards officer who referred the matter for investigation.

### Disclosing final reports

In addition, we have had several queries from monitoring officers about the disclosure of final reports following local investigations. So here we will expand a little further on our local investigations guidance on this area.

As you will be aware, final reports produced following a local investigation are not confidential, and are not afforded the protection under section 63 of the *Local Government Act 2000* that is given to ethical standards officers' reports.

The Code of Conduct says that the final report must be sent to the subject member. In addition, whether or not there is a breach of the Code, it must also be sent to the standards committee.

On top of that, our local investigations guidance also provides that the final report should also be sent to the:

- person who made the allegation
- clerk of any relevant town or parish council
- ethical standards officer who referred the matter for investigation

Our guidance also states that final reports should be made available for public inspection at the authority unless they contain confidential or exempt

information as defined by Part VA of the *Local Government Act 1972* (as amended).

So you should consider whether any part of the final report and appendices (if any) contains confidential or exempt information. If so, that exempt information should not be disclosed to the public for inspection.

If the report has a finding of no breach of the Code, the final report must be considered by the standards committee and should be made available with the public agenda for the standards committee at least five clear days in advance of the meeting.

But if the report has a finding of a breach of the Code, the presumption is that standards committee hearings will be held in public unless exempt information will be discussed under Schedule 12A (as amended) of the *Local Government Act 1972*.

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**“ exempt information should not be disclosed to the public ”**

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Generally, the final report and appendices (if any) should be made available with the hearing's agenda at least five clear days before the hearing, in accordance with normal committee rules for disclosure of agenda reports. However, if a request is made in advance of the hearing for it to be held in private, the final report and appendices, and any other papers provided during the pre-hearing process, should not be published or distributed to members of the public or press before the hearing.

The notice of the hearing and an agenda (without accompanying reports or papers) should be the only documents made available to the public. The agenda should state that a request for the hearing to be held in private is to be decided as a preliminary issue.

The standards committee should then determine on the day of the hearing whether the whole or any part of the proceedings will be held in public or private. And if it is decided that the hearing is to be held in public, copies of the investigator's report and appendices should then be distributed to members of the public who may be present.



## Cases of note

**Councillor Dane disqualified**

**At a recent Adjudication Panel for England tribunal hearing, a councillor was disqualified for three years.**

In the view of the case tribunal, Councillor Dane had conducted a relentless campaign of destructive criticism against the clerk and council members, which was carried out in bad faith and had serious consequences to the health and welfare of others. This campaign was conducted through a series of letters, internet postings, face-to-face encounters and newsletters.

The case tribunal also considered that Councillor Dane had made repeated and false claims regarding the existence of bullying and misconduct by fellow members.

After considering all the evidence and submissions, the case tribunal decided that Councillor Dane failed to treat others with respect and brought his office into disrepute.

As Councillor Dane's actions were considered to be serious, deliberate and sustained, and he did not show remorse or consideration for those he had affected, and had dishonestly denied responsibility for some of his actions, the case tribunal decided to disqualify him for three years.

You can read the case summary and the link to the full tribunal's decision by going to Case Summaries at [www.standardsboard.co.uk/](http://www.standardsboard.co.uk/)

**Adjudication Panel reconsiders Adami case**

**At a case tribunal hearing on 24 June 2004, the Adjudication Panel for England considered the case of Councillor David Adami.**

It was alleged that between April 2002 and January 2003, Councillor David Adami bullied and threatened council staff, was rude and demeaning to a senior officer, made unfounded allegations about officers, tried to reopen closed issues and was generally malicious in his behaviour.

It was also alleged that Councillor Adami tried to reopen a planning representation period so that he could lodge an objection, inappropriately sent

a letter to a barrister who was advising the council, unreasonably pursued matters with officers and made complaints when he felt these matters had not been addressed.

The Adjudication Panel decided that Councillor Adami had committed serious breaches of the Code of Conduct and disqualified him for four years.

Councillor Adami then appealed to the High Court and his appeal was upheld. The ethical standards officer appealed the High Court's decision, and on 21 November 2005 the Court of Appeal made an order. The order included the following:

*"...the matter [the Tribunal's original decision] be remitted to the same Tribunal for reconsideration and formulation of adequate reasons for its decision on the Tribunal's findings of fact on the unchallenged evidence, that the Respondent had breached the Appellant's code of conduct, and as to the appropriate sanction in the light of these findings and reasons."*

**Case sent back to Panel**

So on 30 January 2006, the same case tribunal considered and formulated adequate reasons for its decision that Councillor Adami had breached the code and the sanction.

It started from the point where the hearing ended and took into account only that evidence which was available to them at the close of the hearing.

After its reconsideration, the tribunal decided that Councillor Adami had committed serious breaches of the code that justified a substantial period of disqualification. Taking into account all relevant factors, including that Councillor Adami had already served approximately a one-year period of disqualification, the tribunal decided to disqualify him for a further period of two years from 30 January 2006.

You can read all the details of the case tribunal's revised decision on the Adjudication Panel for England's website, which can be reached by going to: [www.adjudicationpanel.co.uk/](http://www.adjudicationpanel.co.uk/)



## Islington

Those of you who read the local government trade press will have been aware of concerns expressed about our case against councillors from the London Borough of Islington that concluded in January.

The Adjudication Panel for England made a number of criticisms of the way that we carried out the investigation, and the Board has considered what lessons we can learn from the case.

The Board has now apologised to the parties concerned, in particular the Islington chief executive Helen Bailey, who was caught up in the investigation. It has also now expressed a clear view that officers caught up in cases should be told as much as possible about ongoing investigations. The Board has also expressed its regrets in particular for the effects of the delays during the investigation on Islington councillors who were investigated.

### Changes introduced

However, this case was received in the Standards Board for England's early days. Since then, the Board has introduced a number of changes. These include:

- introducing a management framework to instil high standards in the investigations of the statutorily independent ethical standards officers
- a more focused approach to resourcing complex cases
- recruiting more staff with local government experience
- ensuring that evidence and documentation is generally available to witnesses and those being investigated in advance of interviews

The Board also committed to further change, specifically:

- seeking changes in legislation to enable wider disclosure of information concerning cases
- seeking changes to legislation to enable the Board to have an oversight of cases including a code of practice and quality control framework
- compliance checks, overseen by the chief executive, in regard to investigation planning, timeliness, interviews and presentation

- using differing employment models to bring in recent senior local government experience

The Board is clear that ethical standards officers should not be seen as prosecutors and that their role is to help the independent tribunal to arrive at the right decision. This means putting before it all relevant information, whether that information supports or undermines an allegation.

## Parish representatives entitled to full standards committee role

**Parish councillors should not be marginalised or under-used as they have a vital role to play on standards committees.**

They can often produce another perspective on local matters and bring an independent breath of fresh air into debates.

So we've come up with a number of recommendations to ensure that parish representatives on standards committees are treated fairly, and they are as follows:

### Parish pump pointers

- Parish councillors should have the same status and voting rights as other councillors and independent members.
- They should be entitled to any allowances and expenses that are available to other members of the committee.
- At least two parish representatives should be appointed to each committee. Having more than one helps guard against problems in the event that a member is unable to take part in a hearing due to a conflict of interest.
- Authorities should consider involving their county association in the nomination and selection process to ensure that the representatives have the support of the parish sector across the county, and are seen to have the backing of their representative body.
- Standards committees should also consider having parish representatives on hearing panels regardless of whether the hearing involves a town or parish councillor. As parish representatives, in many cases, are independent of the principal authority, they can bring a specific and objective perspective to the case that may be helpful.

## What did you think of our new training DVD?

**All monitoring officers will have now received their copy of our DVD: *Going Local: investigations and hearings*.**

The DVD was issued at the start of the year, and is a training aid that offers advice on how to carry out investigations and organise hearings. We are pleased that many positive comments have been made about the programme. However, we are always keen to hear more from you.

For instance, did you find that the learning summaries were helpful? And did they prompt useful discussions on best practice?

Please email your comments to:

[rebecca.jones@standardsboard.co.uk](mailto:rebecca.jones@standardsboard.co.uk)

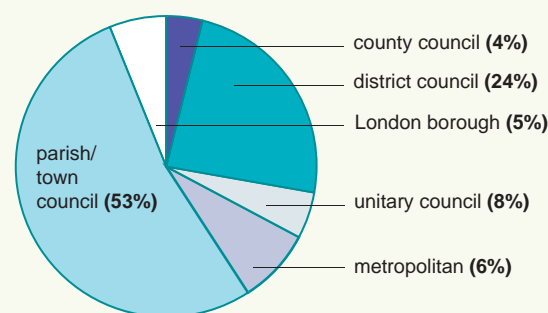
*Additional copies of the DVD are available for £38.00 each. To place an order please contact the Communications office on 020 7378 5028, or email Rebecca Jones at the above address.*

## Referral and investigation statistics

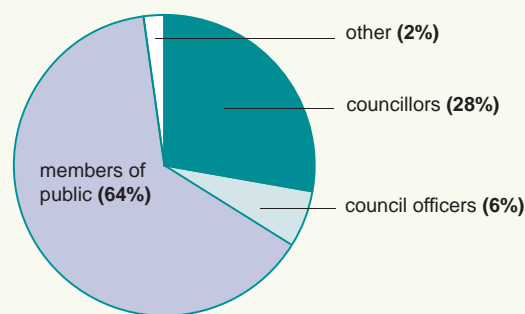
The Standards Board for England received 290 allegations in January and 281 in February, giving a running total of 3,520 for the current financial year.

The following charts show referral and investigation statistics for that period.

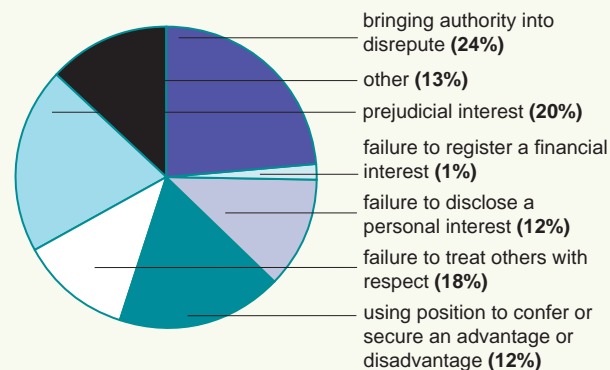
### Authority of subject member in allegations referred for investigation



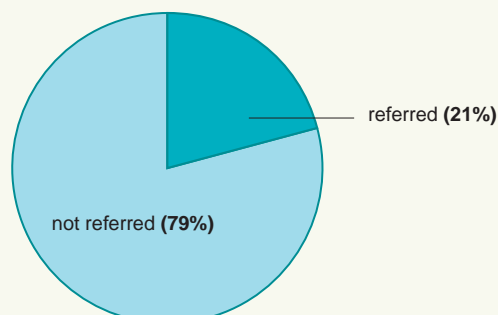
### Source of allegations received



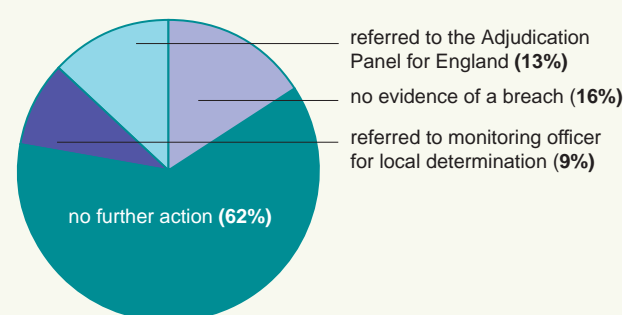
### Nature of allegations referred for investigation



### Allegations referred for investigation



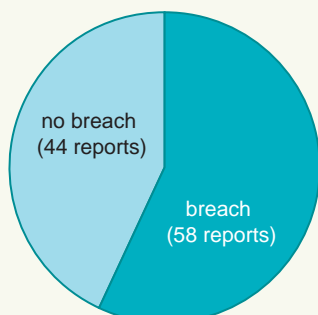
### Final findings



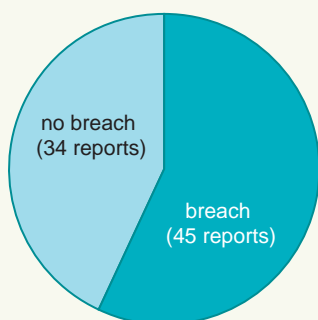
## Local investigation statistics

Ethical standards officers referred 352 cases for local investigation between 1 April 2005 and 28 February 2006 — equivalent to 44% of all cases referred for investigation. Of those 352 cases, we have received 102 reports. The following charts illustrate the outcomes of those cases.

### Monitoring officers recommendations following local investigations

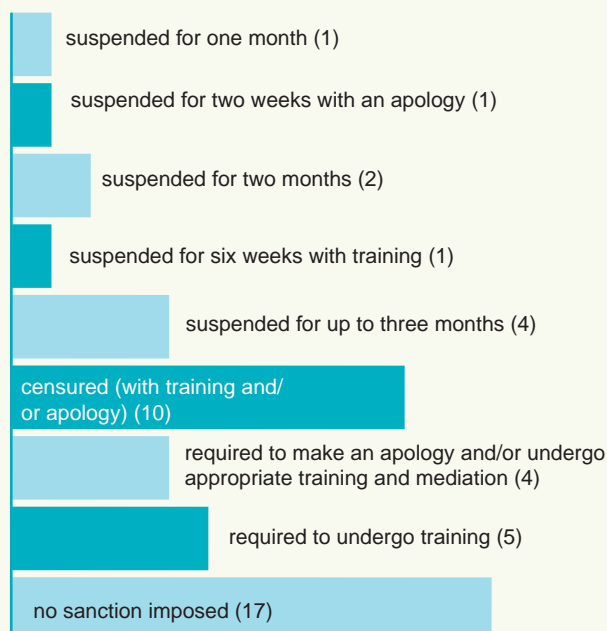


### Of those 102 reports, 79 standards committees have met



- >> six instances where the standards committee disagreed with the monitoring officer
- >> four instances where the decision changed to NO at standards committee
- >> two instances where the decision changed to YES at standards committee

### Standards committee determinations



- >> There have also been four appeals that went to the Adjudications Panel from local investigations.

## Monitoring officers affecting local referrals

Ethical standards officers are finding that they are unable to consider referring some complaints for local investigation. This has occurred when the monitoring officer submitting the complaint has expressed his or her view as to whether the subject of the complaint had failed to comply with the Code of Conduct.

We consider that if monitoring officers express such a view when submitting a complaint, they risk being regarded as having compromised their discretion on the matter. The matter then can only be referred back for local investigation when the authority concerned has a reciprocal arrangement with another one on conducting investigations, a practice recommended in our guidance.

But this does not mean that we do not want to hear from the monitoring officer submitting the complaint.

For instance, we believe it is reasonable and indeed, helpful, for monitoring officers to set out in an allegation any advice that either they or the officers of their department have provided in respect of the behaviour that is the subject of the allegation.

However, if this has not happened, we also feel that it is better practice that no opinion should be expressed. The same advice relates to chairs of standards committees, although no examples of this have yet been noted.

## Are you ready to bridge the gap?

**Are you confident in your authority's ability to deliver on the ethical agenda? Are you feeling challenged by the changes that lie ahead with the revised Code of Conduct and a more locally focused system?**

This year's Fifth Annual Assembly of Standards Committees, *Bridging the gap*, is taking place on 16 and 17 October in Birmingham, and will identify the gaps in resources, knowledge and experience required to deliver effective regulation of ethical standards at a local level.

Working together in a wide variety of sessions, we will then look at how we can bridge those gaps and move forward.

Attracting over 800 delegates, the conference is a rare and valuable opportunity to meet and network with standards committee members,

monitoring officers, council leaders and chief executives from across the country. Fringe events run by other organisations in the local government family also provide a chance to keep up-to-date with developments across the sector.

Bookings are already rolling in and places are filling up fast. So register now to make sure that you won't miss out on the most important event of the year for those who work with the Code of Conduct.

For more information and to reserve your place, call our event managers, Benedict Business Resources, on **01483 205 432** and they will send you an information pack. Or you can visit the conference website by following this link:

[www.annualassembly.co.uk](http://www.annualassembly.co.uk)

## Standards committees and access to information

There have recently been some amendments to Schedule 12A (access to information provisions) of the *Local Government Act 1972*. The amendments, which came into force on 1 March 2006, are contained in the *Local Government (Access to Information) (Variation) Order 2006* and the *Relevant Authorities (Standards Committee) (Amendment) Regulations 2006*.

Parts 1 to 3 of the schedule to the order (which apply to authorities in England) replace the existing Schedule 12A.

It is intended that descriptions of information listed in Part 1 of Schedule 12A will be clearer and simpler, and some of the qualifications in part 2 of the schedule are replaced by a public interest test.

Authorities should note that there are significant differences between the categories of exempt information for England and those categories that apply to Wales.

The additional categories of exempt information introduced by the 2003 regulations are largely unaffected, although some of the amendments have been renumbered.

### At-a-glance changes

The relevant paragraphs from the 2003 regulations are set out below, with the updated paragraph numbering shown in bold.

*"Removed by the 2006 regulations. See paragraphs 1 and 2 in particular of the amended Part 1 to Schedule 12A.*

17. **7A.** *Information which is subject to any obligation of confidentiality*
18. **7B.** *Information which relates in any way to matters concerning national security.*
19. **7C.** *The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act."*

The main alteration is that the new regulations no longer contain a specific provision of 'Information relating to the personal circumstances of any person' (paragraph 16 of the 2003 regulations refer) as this is essentially covered by the provisions contained in paragraphs 1 and 2 of part 1 of the updated provisions.

For ease of reference, paragraph 1 refers to 'Information relating to any individual', while paragraph 2 refers to 'Information likely to reveal the identity of an individual'.

### **Change in guidance?**

We have reviewed the guidance in light of the changes and consider that the substance does not need to be altered.

However, the wording of Schedule 12A currently set out in the Appendix 3 of the guidance should be read in accordance with the amendments.

We believe that it is in the public interest for hearings to be held in public, to ensure fairness and openness, and we recommend that they are wherever possible.

Standards committees will have a continuing obligation to consider the requirements of Articles 6 and 8 of *The European Convention on Human Rights* when holding local determination hearings.

### **Welcoming new members of the Board**

**We are delighted that Elizabeth Hall, Judy Simons and Paul Gott have joined the Board of the Standards Board for England, and here is a little about each of them.**

#### **Judy Simons**

Judy Simons' background is in education and as Professor of English and Pro Vice Chancellor at De Montfort, she has responsibility for Quality and Standards. She chairs the University Human Research Ethics Committee, and is a board member of the Higher Education Academy and Chair of Council. In addition, she is also on the Strategic Committee for Leadership, Governance and Management at the Higher Education Funding Council for England.

Judy has chaired a number of national academic bodies, including the Council of University Deans of Arts and Humanities. She has also published

widely on literary studies and is a Fellow of the Royal Society of Arts and a Fellow of the English Association.

#### **Elizabeth Hall**

Elizabeth Hall comes from the world of financial regulation. For the past ten years, she has worked for the UK's financial services watchdog, the Financial Services Authority, where she has specialised in consumer protection, complaints and financial capability.

Elizabeth is a member of the Queen Mary University of London Research Ethics Committee and of the London Borough of Tower Hamlets Schools Forum and last year, she was appointed to London Travelwatch, the body that represents the views of London's transport users.

In addition, Elizabeth has several lay responsibilities in the Church of England, including chair of the Tower Hamlets Synod and an examining chaplain for the Stepney area.

#### **Paul Gott**

Paul Gott comes from a legal background where he practices as a barrister in commercial and employment law. A member of Fountain Court Chambers, he was appointed as junior counsel to the Crown in 1999 and appointed to the Treasury Counsel 'A' Panel in 2005.

His main areas of specialisation are strike action and discrimination as well as equal pay, on which he regularly advises government departments and private clients. He also works specifically in the areas of civil fraud, banking and accountants' negligence.

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We are working with local government practitioners, and stakeholders, to work out the detail of how we are going to develop our role as a strategic regulator.

Local authorities already carry out the majority of investigations. But as standards committees and monitoring officers continue to gain in confidence, the proportion will grow further. And when the required legislation is passed by Parliament, the job of receiving complaints from the public and deciding which ones to investigate will also devolve to the local level.

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*" ethical standards are everyone's business "*

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All of this will help to make the Code something that is really owned and operated at a local level. Our role will increasingly be to provide the sort of rigorous oversight that will give the public confidence that self-regulation is working.

We will also develop further the support and guidance that make the local focus possible. This month's launch of *The Case Alert* is part of that work.

### Locally owned

Of course, none of this is really new. It has always been the intention that the Code should be as locally owned as possible.

But now that we have reached the stage where standards committees and monitoring officers can assume the responsibility for operating the machinery of the ethical framework the need for strong standards committee chairs, strong independent members and well resourced, supported monitoring officers is clear.

The argument that we need to win is that ethical standards are vitally important to the health of an authority. They are everyone's business.

**David Prince, Chief Executive**

## Prejudicial interest test

**When is an interest deemed "prejudicial"? In this article, we answer some of your concerns about how to determine whether a prejudicial interest is at play.**

Paragraph 10 of the Code of Conduct for local authorities (paragraph 8 for parish councils) states:

"A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest."

It is very clear from this paragraph that in considering whether a member has a prejudicial interest, the test that should be applied concerns a theoretical member of the public, with knowledge of the relevant facts.

Members may, or may not, consider whether they themselves believe that their judgment of the public interest will be prejudiced. However, this is not the correct test to apply. Neither would it be the correct approach to canvass the views of members of the public to identify whether they actually consider the interest to be prejudicial. The correct approach is to consider what a reasonable member of the public would regard as prejudicial, knowing all of the facts.

## The Code isn't a gag

**The article in the last issue of the *bulletin*, titled *the Code isn't a gag*, explained our view that the Code of Conduct does not currently stop members from speaking about matters that interest them and in which they feel passionate. This article was so well received that we thought that it would be useful to go into more detail on the subject.**

It is common ground that a councillor could have a conflict of interest in a matter being considered at the council when:

- he or she lives adjacent to an area of land being discussed
- the subject under discussion affects the home of the councillor's son or daughter
- the councillor owns the piece of land being discussed

The principle is that decisions and considerations at meetings should be made with impartiality and independence and free from possible influence of those who may have prejudicial interests, so as to preserve the public confidence in the authority and its decision-making.

So if you fulfil any of the above criteria, you should not take part in the consideration and decision on the matter, even though you may have the interests of the community at heart.

## Lobbying guidance

A councillor with a personal and prejudicial interest would not, though, be prevented from making written representations to the council, setting out their views on the merits of the matter being considered.

However, they should avoid airing such views to individual members or officers of the council, so as to avoid the impression of improper influence in how those members or officers would make their decisions.

Our [lobbying guidance](#) provides further discussion on how a member with a personal and prejudicial interest could still have his or her say on a matter without breaching the Code.

## Keeping an open mind

But you should also be aware of other principles that may apply to decision-making outside of the Code. Public confidence in decision-making is of the utmost importance in relation to both the Code and the common law principle of predetermination.

If your mind is closed to a matter before the meeting where that matter will be decided, and without having heard all of the arguments, you are likely to be considered to have predetermined the matter.

You should have an open mind before the decision is made, and make sure that you consider all of the views before coming to your own view.

If you show that you have already made your mind up before a meeting where all the relevant information is to be provided, you are likely not to be able to take part in the meeting. This is not by virtue of the Code, but by virtue of this common law principle. You may wish to consult your monitoring officer for further guidance on this.



## Lobby and campaign groups

Councillors who are also members of lobby groups will need to carefully consider their position where their roles and responsibilities as a councillor may conflict with their involvement in lobby groups.

It is essential to strike a balance between representation, driving change and ensuring that an authority can even-handedly decide matters on their merits.

You should also declare a personal interest at a meeting of the council if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision. This is so that members of the public can be informed about the interests that may relate to your decisions.

Participation in the meeting will depend upon whether the interest is also prejudicial. Each case should be considered on its merits and specific circumstances taken into account.

But generally speaking, if the matter being considered relates directly to the lobby or campaign group, you are likely to be considered to have a prejudicial interest and so should not take part in the discussions. This would occur, for example, when the discussion is about whether to grant funding to your lobby group, or to approve a planning application submitted by the group.

However, consideration of matters that relate to the things a lobby group campaigns on or has expressed public opinions about, without affecting the operation of the lobby group directly, will be likely to have an indirect impact on that group and so a prejudicial interest may not arise.

In this case, you should consider the following:

- the nature of the matter to be discussed
- the nature of your involvement with the lobby or campaign group
- the publicly expressed views of the lobby or campaign group
- what you have said or done in relation to the particular issue

## Further information

For further detailed discussion on any of the above, please go to our [lobbying guidance](#) which is available on the Guidance pages of the Code of Conduct section on our website at [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

## Clarity on standards and audit committees

**There has been some confusion over the differing terms of reference between standards and audit committees. However, it is our view that a standards committee plays a unique statutory role within a local authority and that its responsibilities should not be confused with that of the audit committee.**

It is also generally accepted that committees are more effective when they solely focus on their own defined areas of business. So it would be better practice for the standards and audit committees to be clear about their respective roles and responsibilities, and to be aware that there is a clear distinction in their terms of reference.

## Scope of standards committees

Part III of the *Local Government Act 2000* requires standards committees to undertake the following functions:

- Give the council advice on adopting a local Code of Conduct
- Monitor the effectiveness of the Code of Conduct
- Train members on the Code, or arrange such training
- Promote and maintain high standards of conduct for members
- Help members to follow the Code

*The Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003* has led to standards committees also having the responsibility for holding a local hearing following an investigation of misconduct and imposing sanctions. Many standards committees have taken on additional functions to increase their role within the local authority, but their key focus should remain on promoting the ethical environment.

## Clarity of roles

The role of the audit committees is solely to oversee financial processes, audit and risk management. There is a need for clarity of roles, and for some protocol where committees co-exist.

It could also be possible that the committees would contribute to each other's work and/or undertake joint working and reporting on some issues, for which they both would have some responsibility, for example: risk management and monitoring corporate governance.

## The Case Alert now launched

The first issue of *The Case Alert* is now available on our website at: [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

As discussed in the previous *bulletin*, *The Case Alert* will keep you regularly informed of noteworthy decisions made by standards committees, the Adjudication Panel for England and the High Court.

*The Case Alert* will analyse cases that set important precedents in interpreting the Code of

Conduct, as well as look at cases that help clarify existing case law.

The first issue examines a case from earlier this year involving decisions on personal and prejudicial interests and whether the rules on interests affect members' human rights.

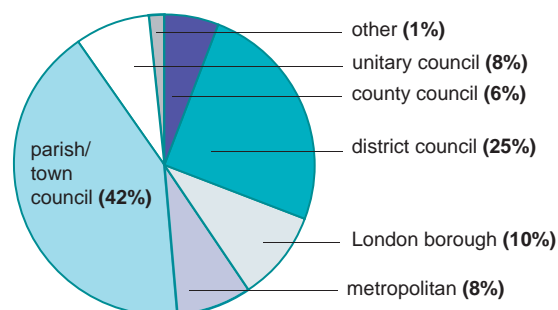
To read *The Case Alert* and to find out about subscribing, please go *The Case Alert* on our website at: [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

## Referral and investigation statistics

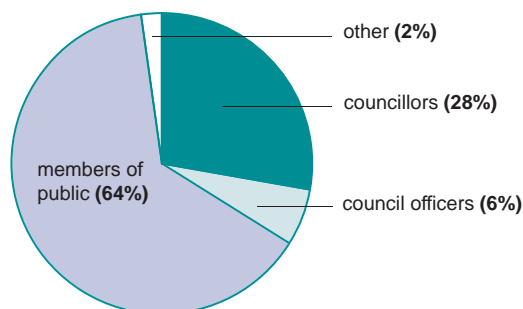
The Standards Board for England received 304 allegations in March, bringing the total number of allegations for the 2005-06 financial year to 3,836.

The following charts show referral and investigation statistics for that period.

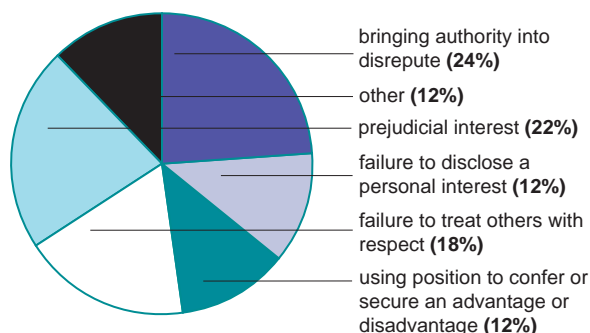
### Authority of subject member in allegations referred for investigation



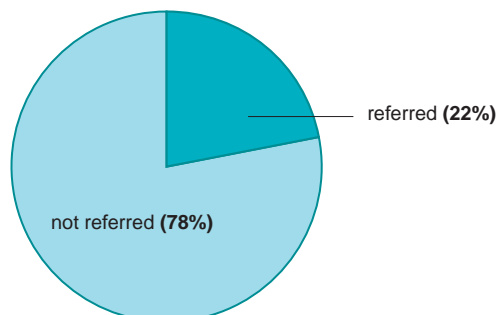
### Source of allegations received



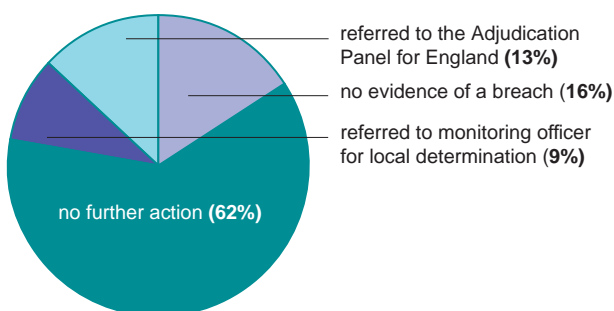
### Nature of allegations referred for investigation



### Allegations referred for investigation



### Final findings



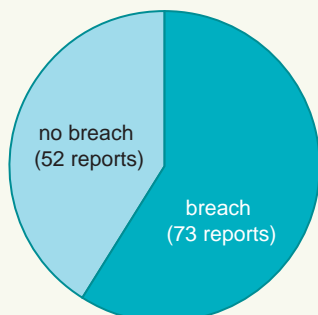
### Presenting cases at the Adjudication Panel for England

Of the 77 cases that the Standards Board for England presented to the Adjudication Panel for England in the 2005-06 financial year, a finding was secured in 69 of those cases and a sanction imposed in 64 cases.

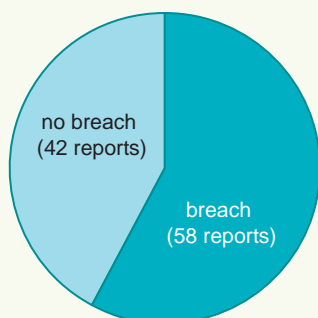
## Local investigation statistics

For the financial year 2005-06, ethical standards officers referred 352 cases for local investigation — equivalent to 44% of all cases referred for investigation. Of those 352 cases, we have received 125 reports.

### Monitoring officers' recommendations following local investigations



### Of those 125 reports, 100 standards committees have met



These figures include six instances where the standards committee disagreed with the monitoring officer. They decided that in four instances the decision should be changed to 'no breach', and in two instances that the decision should be changed to breach.

### Standards committee determinations



There have also been five appeals that went to the Adjudications Panel from local investigations.

## Response to Lyons enquiry

**We were recently asked to respond to the Lyons Inquiry into Local Government on how accountability at all levels of local government can be achieved.**

The report proposes the devolution of decision-making on matters of public spending to non-elected members, officers and partnership organisations, in order to encourage greater local ownership.

We have suggested two ways to help to ensure that high standards of ethical behaviour continue to be met in any developed structure, based on a 'common standards for all' approach.

Our recommendations were as follows:

- councils and partnership organisations should agree on a set of values to abide by when matters regarding public money are discussed
- when decisions on public expenditure are made, those involved should have to sign up to the Code of Conduct already established for elected members in order that all those involved in the allocation of resources are seen to be accountable

The minister's proposal for a new Code of Conduct for officers is also welcomed as a further way of ensuring consistency of approach.

## What makes an ethical authority?

As mentioned in *bulletin 26*, we've commissioned a team at the University of Manchester to conduct research into which components contribute to an ethical local authority.

The purpose of the project, *Identifying the components of an ethical environment*, is to identify the elements of an ethical environment, the relationships between them, and how they relate to the behaviour of officers and members.

The second stage of the project, during which data was collected from eight local authorities, has now been completed. And five key components of an ethical environment were identified as influencing an organisation's ethical environment.

### Five key components

They are as follows:

- rules and trust
- leadership
- transparency and openness
- independent overview
- standards committees and adaptability

Findings from this research will be used to inform future work on the Comprehensive Performance Assessment and the ethical governance toolkit, so that stakeholders will be able to use them to help them develop and maintain a good ethical environment.

The full report and an effective practice guide will soon be available on the Research pages of the About Us section on our website at:

[www.standardsboard.co.uk](http://www.standardsboard.co.uk)

## Helping with training new members

**In this time of transition, it's not always easy to know the best way to get new members up to speed on the ethical framework and their place within it.**

So here we are highlighting some of our publications and guidance that should help monitoring officers as they plan their induction training for new members.

All of this material can be used as a training resource and you could even put some of it in new members' induction packs.

You can download these materials from the [Publications](#) section of our website at: [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

### Publications downloads

- ***The Code to protect you***  
An easy-to-follow guide to the Code and the requirements of members.
- ***How to make a complaint***  
Guidance on making a complaint as well as the form that complainants use.
- ***What happens in an investigation?***  
Information on how investigations are carried out.
- ***The Code in Practice workbook***  
Useful for workshops, as it contains information on the Code and related scenarios for small group discussions.

### Guidance downloads

We also publish the following [guidance](#) on our website:

- ***How do I register and declare interests, and register gifts and hospitality?***  
Guidance on personal and prejudicial interests that also sets out our requirements for registering gifts and hospitality.
- ***Lobby groups, dual-hatted members and the Code of Conduct***  
Guidance to members on declaration of interests when they are involved in lobbying or representing the authority on local bodies or organisations.
- ***Guidance on standards committees***  
Guidance that sets out the structure and role of standards committees in dealing with complaints under the Code of Conduct, promoting and maintaining high standards of conduct in the authority, monitoring the effectiveness of the Code and granting dispensations.

For anything members need to know about the Code of Conduct, please direct them to the [Code of Conduct](#) section on our website.

Members may also wish to subscribe to some of our email publications such as the [bulletin](#) or the [Town and Parish Standard](#). Both of these can also be found on the [Publications](#) section of our website at: [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

## What else is on our website?

New members may also find be interested to know that our website contains [case summaries](#) of recent decisions, and news of [upcoming events](#) such as the [Annual Assembly of Standards Committees](#)

Links to all of the above can be easily found on the Home Page of our website at [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

## Award winning DVD

**Our interactive DVD has been awarded the prestigious Silver Screen Award at the International Film and Video Festival 2006.**

The festival is described as the world's leading competition for business, television, documentary, industrial and informational productions and attracts entries from over 30 countries.

Our *Going Local: Investigations and hearings* DVD was singled out for its "uniformly high standard of quality" in the training and education category, and the award will be presented on 3 June.

Sir Anthony Holland, our chair, said:

"We are delighted that this film has received such high recognition and praise. It is testament to the hard work and efforts of all those involved in the project. It also emphasises the high standard of expertise, support and experience we can offer local authorities as we move into our new role as a strategic regulator."

## What's on the DVD?

*Going Local* is a step-by-step guide to conducting a local investigation from the initial referral stage to the standards committee hearing. Over half of all investigations are now carried out at a local level and the film was developed to be an essential training tool, offering guidance to monitoring officers and standards committee members.

Learning points and commentary appear throughout the film, highlighting the key issues.

If you wish to buy a copy of this DVD, please contact [claire.holyoake@standardsboard.co.uk](mailto:claire.holyoake@standardsboard.co.uk)

## Bookings rise rapidly for conference

**Half of all conference places for this year's Fifth Annual Assembly of Standards Committees — *Bridging the gap: towards effective local regulation* — have already been taken up, since booking opened at the end of March. Sessions are also filling up — so if you have yet to register for the conference, book your place now!**

The conference, which takes place on 16 and 17 October at the ICC in Birmingham, is essential for all those working with the Code of Conduct and the ethical framework. And with the majority of speakers now confirmed, it is set to be one of the most informative and thought-provoking events in the local government calendar.

## Senior figures set to speak

Joining keynote speaker, Phil Woolas MP, Minister for Local Government, will be senior figures from across the local government family including:

- Mirza Ahmad, Monitoring Officer, Birmingham City Council, and Lead Officer (Ethical Governance), Association of Council Secretaries and Solicitors (ACSeS)
- Janie Barrett, Chief Executive, Warwick District Council, and Chair, Society of Local Authority Chief Executives and Senior Managers' (SOLACE) Professional Matters Panel
- Kirsty Cole, President, ACSeS, and Assistant Chief Executive, Newark and Sherwood District Council
- Frances Done, Managing Director — Local Government, Audit Commission
- Steve Freer, Chief Executive, Chartered Institute of Public Finance and Accountancy (CIPFA)
- Barry Quirk, President, SOLACE, and Chief Executive, London Borough of Lewisham

## Completing the line-up

From the world of local government commentary, we will be joined by Professor Gerry Stoker, University of Manchester, who will share his views of the key components of an ethical environment.

And following on from his widely acclaimed appearance in last year's conference debate — *Public confidence in your hands: mission impossible?* — Shaun Lowthorpe, Public Affairs Correspondent, *Eastern Daily Press*, returns once



again, this time to argue where the line should be drawn around the sensitivities concerning freedom of expression.

Sir Peter Soulsby MP, whose background includes 20 years' local government experience as both a local councillor and leader for Leicester City Council, joins this year's big debate panel to deliberate the pros and cons of local level governance.

In addition, delegates will benefit from hearing the views and experiences of a diverse range of monitoring officers, chairs of standards committees and other local practitioners who also join the line-up of confirmed speakers.

As if all that's not enough, a variety of other local government organisations are also hosting fringe events at the Annual Assembly, including a dedicated event for independent members.

And for those solicitors attending this year's conference, there is the added bonus of earning credits towards their continuing professional development (CPD), as the conference is now certified to count towards the Law Society's CPD scheme.

#### **More information and to register**

Visit our conference website at [www.annualassembly.co.uk](http://www.annualassembly.co.uk) for more information and to reserve your place.

### **Complaints statistics**

**Here are the statistics on the speed with which we dealt with complaints, how many we referred, and the types of people who have complained to us during the last financial year.**

Our Referrals Unit dealt with cases faster than they did in the financial year up to 2005, although the referral rate was lower. There was little change in the type of complainants, except that we heard from more members of the public than previously.

On average, we completed cases more than four days faster in the last financial year than in the previous one. The yearly turnaround time for 2004/2005 was 13.1 days, as against nine days for 2005/2006.

Similarly, almost three-quarters (73%) of cases were completed within ten working days in the last

year. This contrasts most favourably with the previous year when less than half (44%) of cases were completed during the same time period.

#### **Yearly referral rate down**

The yearly referral rate of 22% for 2005/2006 was slightly lower than in the preceding financial year (24%). This was because the monthly referral rates in July and October of last year, and January of this year, were particularly low.

In July of last year, we cleared a backlog of cases that contained a higher-than-normal proportion of non-referable cases. Then, in October of that year, we received three large multi-member complaints against a total of 184 members, none of whom were referred for investigation. Finally, in January 2006, we closed a higher than normal proportion of cases because the matters complained about were already under investigation.

#### **More complaints from the public**

There has been very little change in complainant type since the last financial year. The most significant shift has been a slight increase (+4%) in the proportion of complaints from members of the public, which has been offset by a corresponding decrease (-4%) in the proportion of complaints from members.

Complaints from members of the public made up over three-fifths (64%) of the complaints we considered during 2005/2006. However, we referred complaints from this category of complainant less often than from those who could be said to have specialist knowledge of our work.

Thus, we referred for investigation three quarters (75%) of monitoring officer complaints, over half (53%) of council officer complaints and almost half (45%) of parish clerk complaints. This compares to our referral of about a third (30%) of complaints from councillors and less than one-fifth (17%) of complaints from members of the public.

#### **More complaints from London boroughs**

The biggest shifts in authority type between this financial year and the last has occurred in district councils (-7%) and London boroughs (+5%). The proportion of complaints about parish councillors stayed relatively steady with only a 2% increase on 2004/2005. This shift is also reflected in the regional distribution of complaints, with a 5% increase in London-based complaints.

## We are moving

**As you probably know, the government has a policy of relocating central government jobs to the regions.**

So in line with that policy, we will be starting the first phase of our relocation out of London this month. It begins with our Policy and Guidance team, led by Paul Hoey, which will begin working in Manchester from 19 June. Then other parts of the organisation are scheduled to move there at some point in 2007.

### **Staying in touch**

The Policy and Guidance team will be moving into temporary offices in Manchester while we look for a permanent site for the whole organisation. But none of this should cause you any inconvenience.

You will still be able to contact the team. Just use the existing telephone numbers, as they will be automatically diverted to Manchester. And you can still send your post to the London office where staff will ensure it is delivered on to the team.

We aim to ensure that disruption to enquiries is kept to a minimum. But please bear with us if some take slightly longer to answer than normal during the second half of June.

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## **Berkshire, Oxfordshire and Wiltshire Standards Committees**

### **INDEPENDENT MEMBERS' FORUM**

**11am, Friday 21 April 2006**

**Council Chamber, Bracknell Forest Borough Council  
Easthampstead House, Town Square, Bracknell, Berkshire RG12 1AQ**

### **MINUTES**

#### **Present:**

David Best	Cherwell District Council
Ken Giles	Cherwell District Council
Alan St G Savill	Kennet District Council
James Carine	North Wiltshire District Council and Wiltshire and Swindon Fire Authority
Christopher Turner	Oxford City Council
Peter Harris	Royal Berkshire Fire Authority ( <i>Chairman, Host Authority</i> )
Geoffrey Mayes	Royal Berkshire Fire Authority
Rosemary Lansdowne	Royal Berkshire Fire Authority
Roger Sparrow	Royal Borough of Windsor and Maidenhead
Michael Field	Slough Borough Council
Paul Lipscomb	Slough Borough Council
Anne Rehill	Standards Board for England
Alex Kroon	Standards Board for England
Trevor Davies	Swindon Borough Council
Paul Thomas	Thames Valley Police Authority
James Rees	West Berkshire Council
Stuart Harrison	West Oxfordshire District Council
Paul Lefever	Wiltshire County Council
Peter McGuigan	Wiltshire County Council
Catherine O'Sullivan	Wiltshire County Council
John Adams	Wiltshire Police Authority
David Comben	Wokingham District Council

#### **In attendance:**

Lynda Kenyon	Royal Berkshire Fire Authority
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#### **1. WELCOME**

The Independent Chairman of the Royal Berkshire Fire Authority's Standards Committee, Mr Peter Harris, welcomed everyone to the meeting and extended a welcome to Anne Rehill (Senior Policy Advisor, Standards Board for England).

#### **ACTION**

## 2. APOLOGIES FOR ABSENCE

Apologies for absence were received from:

Alex Jack	Bracknell Forest Borough Council
David Osborn	Bracknell Forest Borough Council
Sadie Reynolds	Cherwell District Council
Maria Memoli	Kennet District Council
Peter Jeremiah	North Wiltshire District Council
Bob Philpott	North Wiltshire District Council
Jeremy Thomas	Oxford City Council
Peter Clark	Oxfordshire County Council
Paul Sidwell	Royal Berkshire Fire Authority
Ron Webb	Royal Berkshire Fire Authority
Charles Elly	Royal Borough of Windsor and Maidenhead
Alison Mihail	Royal Borough of Windsor and Maidenhead
Karnail Pannu	Royal Borough of Windsor and Maidenhead
Lloyd White	Royal Borough of Windsor and Maidenhead
Rodney Job	Salisbury District Council
Frederick Ashmore	Slough Borough Council
June Cook	Slough Borough Council
Zahire Khan	Slough Borough Council
Steven Quayle	Slough Borough Council
Margaret Reed	South Oxfordshire District Council
Stephen Taylor	Swindon Borough Council
P Cleasby	Thames Valley Police Authority
D Jones	Thames Valley Police Authority
John Gunn	Vale of White Horse District Council
Tim Sadler	Vale of White Horse District Council
David Holling	West Berkshire Council
Keith Butler	West Oxfordshire District Council
Gordon Halliday	West Oxfordshire District Council
Caroline Redzikowska	West Oxfordshire District Council
Margaret Thompson	West Oxfordshire District Council
Tim Darsley	West Wiltshire District Council
Tony Frost	West Wiltshire District Council
Kurt Paulus	West Wiltshire District Council
Keith West	West Wiltshire District Council
Digby Barker	Wiltshire and Swindon Fire Authority
Keith Strickland	Wiltshire and Swindon Fire Authority
Stephen Gerrard	Wiltshire County Council
Ian Gibbons	Wiltshire County Council
Ron Flux	Wiltshire Police Authority
Anthony Hadfield	Wiltshire Police Authority
Peter Cave	Wokingham District Council
Anita Grosz	Wokingham District Council
Susanne Nelson-Wehrmeyer	Wokingham District Council

### **3. NOTES OF THE MEETING HELD ON 21 OCTOBER 2005**

The notes of the meeting held on 21 October 2005 were *received*.

The Chairman proposed that 'Joint Training Events' as referred to under Item 8 of the notes of the meeting held on 21 October 2006, be raised under Item 9 of the Agenda (Open Forum).

The Chairman stated that Agenda Items 4 and 5, 'Office of Deputy Prime Minister discussion paper Standards of Conduct in English Local Government: The Future' and 'Review of Code of Conduct' respectively, would be taken together by Anne Rehill.

#### **4 / 5 OFFICE OF DEPUTY PRIME MINISTER DISCUSSION PAPER 'STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE' / REVIEW OF CODE OF CONDUCT**

Anne Rehill thanked the Independent Members' Forum for inviting her to the meeting, and introduced Alex Kroon (Policy Advisor, Standards Board).

Anne Rehill provided an update on the developments following the recent ministerial announcement relating to the Standards of Conduct in English Local Government, noting in particular that there were a number of issues still to be considered and resolved.

Anne Rehill outlined what these developments would mean for the Standards Board, which included:

- The championship and promotion of high standards of conduct.
- The need to investigate cases of national significance.
- Assisting Authorities to ensure that high standards of conduct were maintained.
- The transition to local filtering.
- The power to withdraw local filtering procedures.
- Improving the effectiveness of Standards Committees.
- The need to ensure that Monitoring Officers were both capable and appropriately resourced.
- The provision of appropriate training and guidance to implement the New Code.

Anne Rehill detailed the issues that Standards Committees would need to consider, including:

- Decision-making responsibilities, functions and powers of Standards Committees, and the need for flexibility.
- How the appeals' process would be managed and implemented.
- Whether there should be joint working between Committees, and if there would be any benefits of combining Committees, particularly in areas where large numbers of Parish Councils exist.
- How local filtering decisions would be made, and whether these should be conducted at County or Parish level.
- Ensuring that appropriate mechanisms were in place.
- Whether the current number of Independent Members on Standards Committees was adequate to take forward proposed revised role responsibilities.
- Independent Members' skills, and the issues pertaining to the recruitment of Independent Members.

Anne Rehill noted the issues that Monitoring Officers would need to consider, and these included:

- The need to ensure consistency of advice and interpretation, and how this might be managed. Anne Rehill confirmed that the Standards Board would be issuing appropriate guidance and advice relating to an overarching framework for formulating referrals.
- Whether there should be accreditation.
- The possibility of sharing of resources, noting the possible resulting impact of additional work that local filtering might bring about.
- Consideration of the appointment of a Deputy Monitoring Officer.

Anne Rehill referred to the role of the Standards Board, noting that a number of issues still needed to be considered, which included:

- What was meant by 'serious' or 'of national significance'.
- Whether additional local sanctions would make a difference.
- Whether the Standards Board would be able to 'call-in' cases.
- How the withdrawal of delegation would work.
- The collation of appropriate information and data, whether it should relate purely to referrals, and what information would be required in order that the Standards Board could make an informed decision.
- Joint arrangements.
- How delegation would be returned.

Anne Rehill provided an explanation of the purpose and key direction of the new Code of Conduct and how the Standards Board perceived it would be embedded, the salient points as follows:

- It would be simpler, more enabling, and include general principles as a preamble to the Code.
- It would be owned by Members.
- There would be greater clarity on confidentiality issues.
- Rules relating to 'Interests' would be simpler and would empower Members as community advocates.
- Some aspects of Members' private lives would continue to be covered by the Code.
- It would remove the duty to report breaches.
- The inclusion of a specific provision on bullying.

Anne Rehill detailed the new proposals for Members' Interests which it was anticipated would:

- Be simpler and more enabling.
- Empower community advocates.
- Reduce the number of 'Personal Interests' to be declared.
- Amend the definition of 'Personal Interests', for example, Members would not need to declare an Interest where it was merely something they shared with the wider community.
- 'Public Service Interests' would be treated differently.
- Provide Standards Boards to grant local dispensations to Members with 'Prejudicial Interests' for community advocacy.

Anne Rehill outlined the future developments for the standards of conduct, which included:

- The implementation of the new Code of Conduct, expected enactment in 2008.
- The provision of guidance and training materials.
- The re-orientation to a strategic regulatory role.
- The introduction of the local filter.
- Building the capacity and effectiveness of Monitoring Officers and Standards Committees.
- The re-location of the Standards Board to Manchester.

The Chairman thanked Anne Rehill for a very interesting and thought-provoking presentation.

The following questions, comments and concerns were raised by the Forum, the salient points being:

- **Concerns relating to the call-in of investigations.**

Anne Rehill stated that the implications for this needed further consideration by the Standards Board, however it might be prudent for the Standards Board to take a case back rather than call it in.

- **How would local filtering decisions made by Standards Committees be monitored and audited, and what involvement might there be for this by internal and external Auditors? If internal/external Auditors were employed, would this be the appropriate monitoring mechanism, and, if so, had the financial implications been considered?**

Anne Rehill recognised the need for monitoring and auditing functions, reported that consideration was being given by the Standards Board to how this might be managed consistently in the future, particularly in terms of strategic regulations and the financial implications. She stated that consideration had been given to a number of auditing procedures, including annual returns.

- **How would the Standards Board ensure consistency of outcomes, and how did it anticipate promoting consistent and common standards?**

Anne Rehill stated that strategic framework setting was required, and that she anticipated the Standards Board would establish guidelines, both in terms of statutory and non-statutory guidelines. She noted the difficulties in maintaining a balance between central and local issues, but recognised that it was important to allow local circumstances to be taken into account. She stated that another mechanism for ensuring consistency might be for the Standards Board to engage in training issues and the provision of training materials.

- **General concerns were raised regarding resource, capacity and cost implications relating to the expectation of an increased workload of Standards Committees in the filtering and determining of cases, the proposal for Deputy Monitoring Officers, the possible conflicts between Officers and Members in making a decision, and the potential for time delays to the investigative process.**

Anne Rehill noted that the proposals for consideration were Government proposals and that the Standards Board was also concerned with how these might be resourced. She felt that joint working might be an option to consider to enable effective management which, in turn, might reduce overall costs, and that joint reciprocal working arrangements might also be considered, however she recognised that there were still issues to be considered in terms of pooling of budgets and how this would be resourced.

- **How did the Standards Board anticipate introducing accreditation for Monitoring Officers, what form would the accreditation take and was this appropriate in that other Section 151 Officers, and, for example, Committee Administrators, do not require accreditation in order to carry out their role responsibilities?**

Anne Rehill did not know what form the accreditation might take, but stated that this might be a mechanism to achieve consistency in terms of advice. She stated that there would need to be a transitional period in place if the Government put any mechanisms in place, and that further dialogue with Access might be helpful. She recognised that this was a sensitive issue and that careful negotiations were required.

The Chairman recognised that this needed further debate when more Monitoring Officers were in attendance.

- **The Chairman felt that it would be useful to know what the total national costs were in relation to the administering of Standards Committees.**

The Forum did not, in the main, feel that this would be beneficial or effective. Anne Rehill stated that if anyone wanted to pursue this further, the Local Government Association might be the contact point in the first instance.

Anne Rehill reiterated that the issues for consideration, as outlined in her presentation were still being considered, and that any issues raised by the Independent Members' Forums would also be considered.

## **6. MINUTES OF THE MEETING OF THE INDEPENDENT MEMBERS' FORUM CO-ORDINATORS HELD ON 20 MARCH 2006**

Stuart Harrison (West Oxfordshire District Council) conveyed this thanks to Keith Butler (Deputy Monitoring Officer, West Oxfordshire District Council) for his support in co-ordinating the Independent Members' Forum meetings.

Anne Rehill confirmed that she had circulated contact details of all Independent Members who attended the Co-ordinators Group.

General discussion took place regarding the establishment of a National Forum for Independent Members, the salient points and comments received were as follows:

- Was there a need for a National Forum?
- Who would regulate and monitor a National Forum and how would it be resourced?
- What involvement and regulatory influence would the Standards Board have in a National Forum?
- Concerns regarding having fringe meetings.
- The current Forum meeting arrangements for Independent Members was felt to be the right balance.

The minutes of the Independent Members' Forum Co-ordinators meeting held on 20 March 2006 were **noted**.

## **7. ATTENDANCE AT INDEPENDENT MEMBER FORUM CO-ORDINATORS' MEETINGS**

Stuart Harrison (West Oxfordshire District Council) asked the Forum to consider the attendance of an Independent Member at future Independent Member Forum Co-ordinators' meetings, and, if appropriate, to nominate a representative and a Deputy.

Anne Rehill provided a brief explanation of the purpose of the Co-ordinators forum.

The question of whether the Co-ordinators' Group should be given a formal status was raised. Anne Rehill stated that this had not been previously supported by the Group, and that there had been a differing of opinion as to the Co-ordinators' expected role at these meetings. She stated that she could raise this again at their next meeting for further consideration.

**A Rehill**

It was generally supported that it would be beneficial for a representative from this Forum to attend the Independent Member Forum Co-ordinator's meeting and to provide feedback to this Forum, however attendance should facilitate a support mechanism and representative role only. Trevor Davies (Independent Member and Vice Chairman of the Swindon Borough Council Standards Committee) put himself forward, and this was supported by the Forum. He agreed to attend their next meeting, and subsequently advise this Forum on the best way forward for future representation. He also agreed to prepare a report for the meeting. The need for a deputy representative was not discussed further.

**T Davies**

The representation of the Standards Board at each Independent Members' Forum meetings was raised, and Anne Rehill was asked if she would give a commitment to this. She stated that she was not able to do this as the Standards Board was not always invited to Forum meetings, and it would also be dependent on the availability of representatives from the Standards Board.

## **8. RECIPROCAL ATTENDANCE AT INDEPENDENT MEMBERS' FORUMS FOR OTHER AREAS**

Following the discussions at the above Agenda item, it was agreed not to pursue this proposal.

## **9. OPEN FORUM**

### **a) Joint Training Events**

It was recognised that the Forum meetings enabled training opportunities for Members, and the benefit of Members' attendance was noted. It was acknowledged that joint training sessions were often difficult to co-ordinate.

It was **agreed** that the meeting had enabled open discussion and, therefore, there was no requirement for any further open discussion.

The Chairman conveyed his thanks to Bracknell Forest Borough Council for providing the venue for this meeting, and to Rosemary Lansdowne (Clerk and Monitoring Officer) and Lynda Kenyon (Committee Manager) of the Royal Berkshire Fire and Rescue Service for the facilitating the hosting arrangements.

#### 10. DATE, TIME AND VENUE OF NEXT MEETING

The next meeting will be held on **Friday 27 October 2006 at 11am.**

#### 11. HOSTING AUTHORITY FOR NEXT MEETING

Peter McGuigan agreed that Wiltshire County Council would host the next meeting, and that he would liaise with Stephen Gerrard (Monitoring Officer) regarding the necessary arrangements.

**P McGuigan**

It was ***agreed*** that each Authority should, prior to the next meeting, consider if they were able to host a subsequent meeting in order that meeting arrangements could be firmed up at each meeting.



# AIMSce

Association of Independent Members of Standards Committees in England

Dane Lodge, Main Road, Newbridge, Isle of Wight. PO41 0TR.

Tel: 01983531427; Fax: 01983531885: E-mail: bandjclaxton@btinternet.com

14/07/06

**To Monitoring Officers and Independent Members** of Standards Committees in principal authorities in Hampshire, Isle of Wight, East Sussex, West Sussex and Surrey.

A Steering Committee drawn from the Regional Coordinators of forums for Independent Members of Standards Committees has recently established an association known as Association of Independent Members of Standards Committees in England and in short AIMSce. The Inaugural meeting will take place in Birmingham on 16 October; a notice to that effect is attached. There are many advantages for Independent Members in having a representative professional body, particularly since the Government is proposing that the Chair of Standards Committees should be an Independent Member.

To achieve the primary objects of AIMSce will require funding. The initial expenses include setting up a web site, communicating with others in the Conduct regime and hosting the Fringe event, (see notice).

We shall be asking members to pay a once off joining or registration fee of £15 and an annual subscription £10. It appears from various surveys that have been carried out on an informal basis that some Independent Members are in receipt of an allowance from their authorities and some are not. Those in receipt of an allowance indicate significant variation in the amount offered. Those who are not in receipt of an allowance may decide not to join the Association because of the cost notwithstanding the benefits available.

We therefore seek the support of Monitoring Officers in several ways, firstly in recognising AIMSce as another stakeholder in the Conduct regime, secondly by providing your Independent Members with funds to join and maintain their membership of AIMSce and thirdly, if possible, to provide us with a grant to assist with our initial establishment costs.

Copies of the constitution and membership application forms for your Independent Members can be obtained as stated on the notice..

We thank you in anticipation of your support and encouragement.

Yours faithfully,

R. B. Claxton, Chairman AIMSce Steering Committee..

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# AIMSce

**The Association of Independent Members of Standards Committees in England** is a new professional body to provide peer group support, champion the role of Independent Members and represent their interests. The need for collective representation and a powerful voice has become evident in recent months.

The inaugural meeting of AIMSce will be held on 16 October, 2006 at the Fringe Meeting for Independent Members at the Fifth Annual Assembly of Standards Committees in Hall 7 at 18.30 pm.

## **Agenda.**

1. Opening address “Why do we need an association?”  
by Bruce Claxton, chair of the **AIMSce** steering group.
2. Resolution “To adopt the constitution”.
3. Elections to appoint office holders:-  
Chair,  
Vice Chair,  
Secretary,  
Treasurer.
4. Election to appoint one director without portfolio.
5. Resolution “To empower the office holders to appoint directors as necessary to fulfill the functions of:-  
Membership Secretary,  
Newsletter Editor,  
Website Manager.”
6. General Discussion.

## **Notes**

- a. Copies of the constitution may be obtained electronically by sending an e-mail to [bandjclaxton@btinternet.com](mailto:bandjclaxton@btinternet.com) or by sending a stamped, addressed A5 envelope to AIMSce, Dane Lodge, Main Road, Newbridge, Isle of Wight, PO41 0TR.
- b. An application form to become a member may also be obtained in similar manner.
- c. All members joining before or at the Inaugural meeting will be Founder Members.
- d. Nominations for election to Office Holder, to the board of directors generally and for one of the functions listed in item 5 need to be sent in writing by a paid up member by either e-mail or mail by 6 October, 2006 to the addresses in note (a).

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## Agenda Item 9

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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