

Swindon Borough Council

Standards Committee

Monday, 23 October 2006

Committee Room 2, 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)
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AGENDA

1. Apologies for Absence

2. 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.

3. Minutes (Pages 1 - 4)

4. 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.)

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>
7	1 and 2

6. Ethical Framework Update (DLDS-R) (Pages 5 - 88)

7. Ethical Framework Compliance Update (DLDS-R) (Pages 89 - 90)

13 October 2006 (being date of agenda despatch)

Key:

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

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

MONDAY, 24 JULY 2006

PRESENT:- Mr Trevor Davies (Vice-Chair, in the Chair), Mr Mike Compton and Councillor Maurice Fanning.

Apologies for absence were received from Mr Keith Carby and Councillor Melanie Duff.

1. Declarations of Interest

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

2. Minutes

Resolved – That the minutes of the meeting held on 31st May 2006, be confirmed and signed as a correct record.

Matters Arising – The Director of Law and Democratic Services advised that Councillor Lister had not submitted an appeal against the decision of the Committee. The Director advised that the Committee's recommendations in respect of the minuting of meetings and the role of the Chair were being put in place.

3. Public Question Time

No public questions were received during the meeting.

4. Exempt Items - Exclusion of Press and Public

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 9 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 8 refers.)

5. Employee Code of Conduct

The Committee considered a report of the Director of Human Resources and Cabinet Member for Corporate Affairs, seeking the Committee's approval of a Code of Conduct for Swindon Borough Council employees. The Code was underpinned by a range of supporting policies, and had been considered by the Committee in a draft form in March 2006 during the consultation phase, and the changes incorporated.

Resolved – That the 'Swindon Borough Council – Code of Conduct for Swindon Borough Council employees be approved and adopted and that the Director of Human Resources proceed to ensure its implementation.

6.

Annual Report and Work Programme

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) asking the Committee to consider and approve its Annual Report for 2005/06 and agree its work programme for the current municipal year (2006/07). It was noted that the annual report (supported by minutes and agendas of the Committee) demonstrated that the Monitoring Officer and Committee were proactive in promoting and maintaining high ethical standards in the Council, including appropriate monitoring of standards and training for Members and Officers.

Resolved – 1) That the Standards Committee Annual Report for 2005/06 be approved and forwarded to full Council for information, subject to following amendments:

- Page 4 be amended to record that Mr Mike Compton was formally appointed to the Committee by the Swindon Area Committee of Wiltshire Association of local Councils.
- Page 12 be amended to record that ethical training for Members had included participation in case study exercises.

2) That the Committee Work Programme for 2006/07 attached at Annex '1' be agreed.

7.

Ethical Framework Update

The Committee received a report from the Director of Law and Democratic Services (Monitoring Officer) providing an update of various matters relating to the Ethical Framework.

In relation to Promotion of Ethical Standards, the Monitoring Officer confirmed that all members elected in May 2006 had either attended the Induction course on Ethics and Probity, or attended individual sessions, and had completed their register of interests. Each Councillors' entry could be accessed via the Council's website, and the Monitoring Officer regularly inspected the register. All staff had received information about the work of the Standards Committee and a reminder of the whistleblowing policy in the Team Brief for May 2006.

The Committee received Standards Board Bulletins for April and May 2006 and noted matters of interest, and received the minutes of the Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Forum held in April.

The Committee were advised of the Annual Standards Conference to be held in October and invited to notify the Monitoring Officer if they wished to attend. The Committee agreed to move the date of the next Committee in order to avoid a clash with the conference.

Finally, the Committee received an application from the new Association of Independent Members of Standards Committees in England (AIMSce) for financial support for the set up of the Association, and to provide membership fees for Independent Members of the Standards Committee to attend. Mr Trevor Davies (Independent Member) stated his own view that although he would not wish to stop any independent members from signing up themselves, he would not wish the association to be supported by the Council. He felt that an association separating out independent members, undermined the role that each complete Standards Committee comprising independents, members and parish representatives, sought to perform within each local Council, and their role of making representations nationally. He advised that this view had been supported by the Berkshire, Oxfordshire and Wiltshire Independent Members Forum. The Standards Committee

concurred with this view.

Resolved – 1) That the Ethical Framework Update be noted;

2) That individual independent members can join the Association of Independent Members of Standards Committees in England (AIMSce) using their allowances, but that no additional financial support be given by the Council for the set up of the Association;

3) That the date of the next meeting of the Standards Committee be moved to 23rd October; and

4) That Standards Committee Members wishing to attend the annual Standards Board Conference on 16th and 17th October 2006 advise the Monitoring Officer as quickly as possible.

8. Ethical Framework Compliance Update

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) concerning the outcome of various ethical framework compliance matters. It was noted that a number of complaints had been referred to the Standards Board for investigation and all but one had been dismissed as not requiring investigation. One complaint was to be referred to the Monitoring Officer for local investigation and determination.

The Committee received a copy of the Swindon Internal Audit Services Fraud Bulletin Number 3 for information.

Resolved – That the report in respect of ethical framework compliance issues be noted.

Standards Committee
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"> • Adopt Employee Code of Conduct • Consider draft Annual Report for 2005/06 • Agree future Work Programme
16-17 October 2006	Standards Board Annual Conference
23 October 2006	<ul style="list-style-type: none"> • 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'. • Review Media Guidelines for Members • Update Procedures for Hearings • Update Anti-Fraud Strategy and Whistleblowing Policy.
23 January 2007	<ul style="list-style-type: none"> • Review Ethical Audit.
19 March 2007	<ul style="list-style-type: none"> • Review Council Codes and Protocols.

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

Standards Committee

Date: 23 October 2006

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 the Monitoring Officer in conjunction with the Head of Communications consults with Members on the revised Media Guidance for Members attached at Appendix '4' and reports back with the final Guidance for approval to the next Standards Committee.
- That the Monitoring Officer further review the Procedures for Investigation and Determination of Complaints referred by the Ethical Standards Officer following the completion of the current investigation.

1. Reasons

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

2. Detail

Council Comprehensive Performance Assessment (CPA) / Joint Area Review (JAR) Assessment

- 2.1 The Council Comprehensive Performance Assessment (CPA) and the Joint Area Review (JAR) judgement was issued on Tuesday 10th October by the Audit Commission. The Audit Commission judged the Council as having undergone 'a radical transformation' over the past 3 years, a Council that is 'performing adequately' and that is 'well placed to deliver further improvements.' The report was also very positive about the Council's vision and strategy for continuing to improve and transform in the future. The overall judgment was achieved against the Commission's new, tougher framework 'The Harder Test'.
- 2.2 So far as the ethical standards of the Council are concerned, the judgement comments that: *"Appropriate mechanisms are in place and are effective in ensuring good, ethical standards are maintained. Codes of*

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.

Ethical Framework Update

Standards Committee

Date: 23 October 2006

conduct are in place, action has been taken in instances of improper conduct". The judgement reinforces similar comments made in previous CPA judgements in relation to the work of the Standards Committee.

Adjudication Panel Decisions

- 2.3 The Institute of Public Finance Better Governance Team provides a periodic cumulative summary of decisions by Case Tribunals formed from the Adjudication Panel, giving key points in cases with potential implications for other authorities.
- 2.4 A copy of the summary issued in October 2006 is attached at Appendix '1'. The Monitoring Officer will alert the Committee at the meeting to any issues of particular note.

Promotion of Ethical Standards and Training

- 2.5 The CIPFA checklist for the Corporate Performance Assessment requires at Level 3 of the Key Lines of Enquiry (KLOE) that this Council is proactive in the following:

"All Members have been offered ethics training, which includes participatory case study exercises, shortly after election. Attendance records show good levels of attendance, shortly after election; attendance records show good levels of attendance (i.e. at least two thirds) one to one training is offered to those unable to attend.

Refresher and update training is offered at least once during the lifetime of the Council and attendance records show good levels of take up (i.e. at least two thirds)."

- 2.6 Obviously the KLOE refers to Councils with elections every four years. This Council with elections by thirds has ongoing Ethics training. So far this year, 8 new members received Ethics induction training on 19th May and the remaining 3 have received one to one training with the Monitoring Officer.
- 2.7 The Monitoring Officer held a refresher training session for all Members on 7th September 2006 relating to Ethics and Probity including participatory case study exercises.
- 2.8 A session has been arranged for the Monitoring Officer and Vice-Chair of the Committee to provide further training to Parish Councillors with regards to Ethics and Probity. This will take place on 16th November at the offices of Haydon Wick Parish Council.

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Ethical Framework Update

Standards Committee

Date: 23 October 2006

Annual Standards Board Conference

- 2.9 The Annual Standards Board Conference in Birmingham held on 16th and 17th October 2006, and was entitled: 'Bridging the gap: towards effective local regulation'. The Monitoring Officer attended and will report back to the Standards Committee.

Standards Board Bulletin

- 2.10 The Standards Board Bulletin for July 2006 (Issue 30) is attached at Appendix '2'. The Monitoring Officer will highlight key areas of interest at the meeting.

Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum

- 2.11 The next meeting of the Forum is scheduled for 11 am on Friday 27th October 2006 at Wiltshire County Council, County Hall, Trowbridge. This will include two speakers: Mr Bruce Claxton who will be reporting on the launch event of the Independent Members' Association, and Mr Stephen Callender, Policy Adviser from the Standards Board, who will be covering various matters including the review of the Code of Conduct and any developments arising from the Standards Board Assembly.
- 2.12 The Vice-Chair is intending to attend and will report back to the next meeting.

Work Programme 2006/07 Update

Revision of Media Guidelines for Members

- 2.13 The Head of Communications has reviewed the Media Guidelines for Members that are part of the Constitution (attached at Appendix '3'). A revised version of the Guidelines are attached at Appendix '4' for the Committee to consider, and will form part of the reviewed Communications Strategy. Subject to any comments and changes the Committee wishes to include, it is recommended that the Monitoring Officer in conjunction with the Head of Communications consults with Members on the revised Media Guidance for Members and reports back with a final protocol for approval to the next Standards Committee.

Corporate Governance in Local Government – A Framework

- 2.14 CIPFA / SOLACE recently issued a revised document 'Good Governance in Local Government – A Framework', updating the 2001 publication: 'Corporate Governance in Local Government: A Keystone for Community Governance' in 2001 and aiming to provide a framework that can be

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Ethical Framework Update

Standards Committee

Date: 23 October 2006

followed as best practice for developing and maintaining a locally adopted code of governance. The deadline for the Council to comment was 11th September 2006 and the consultation was considered by the Corporate Governance Working Group and a response submitted.

- 2.15 A copy of the consultation paper and the Council's response are attached at Appendix '5' and '6' for information. The response is being reported to the Committee, as the promotion of effective local governance, ensuring public confidence in elected Members and appointed officers, and that the Council fulfils its purpose and that intended outcomes for citizens and service users are delivered in an effective, efficient, economic and ethical manner is a key concern for the Committee.

Review of Procedure for Local Investigation of Referred Complaints

- 2.16 Under the provisions of the Local Government Act 2000 (The Local Authorities Code of Conduct Local Determination Regulations 2003, the Council adopted procedures in November 2003 and November 2005, for the local investigation and hearing of Code of Conduct complaints referred by an Ethical Standards Officer at the Standards Board. These procedures were used to investigate and determine a complaint referred during 2005/06.
- 2.17 The Procedures for Local Investigation of Referred Complaints have been reviewed by the Monitoring Officer, who recommends that in the light of the current investigation into an allegation against a Parish Councillor, the procedure be further reviewed having regard to any issues raised during that investigation.

Update Anti-Fraud Strategy and Whistleblowing Policy.

- 2.18 The Head of Internal Audit is in the process of reviewing the Anti-Fraud Strategy and Whistleblowing Policy and will report to the next Standards Committee.

Alternative Options

- None

Risk Management

Financial and Procurement Implications

- None

Legal / Human Rights Implications

- None

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.

Ethical Framework Update

Standards Committee

Date: 23 October 2006

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

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

Background Papers and Appendices

- Appendix 1 - Adjudication Panel Decisions - Summary
- Appendix 2 – Standards Board Bulletin Issue 30 (July 2006)
- Appendix 3 – Current Media Guidelines for Members
- Appendix 4 – Suggested revision of the Media Guidelines for Members
- Appendix 5 – Good Governance in Local Government – A Framework, CIPFA / SOLACE Consultation Paper.
- Appendix 6 – Council's response to Consultation Paper

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.

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Conduct, Behaviour & Ethical Standards

ADJUDICATION PANEL DECISIONS

The Institute of Public Finance Better Governance Team provides a cumulative summary of decisions by Case Tribunals formed from the Adjudication Panel. The summaries are brief and succinct and designed primarily to advise Monitoring Officers and members in a quick and readable form of the key points in what are considered to be the more far-reaching decisions with possible implications for other authorities.

The summaries are not a substitute for reading the whole report on the Adjudication Panel website but are intended to be a helpful alert to circumstances which may be relevant to forthcoming events in readers' own authorities or current practices, or the absence of them, in their own authorities.

CONFIDENTIALITY

Milton Keynes 293

Complaint related to the sending by the Council Leader of a report about the conduct of a Councillor in another party to that Councillor's employer. Paragraphs 3(a), 4 and 5 were considered but the Tribunal did not find that any of them had been breached.

Westminster 241

The Leader of the Opposition had disclosed to the media information marked "confidential" in emails from the Monitoring Officer. The Councillor and the ESO were represented by Queens Counsel and put before the Tribunal a considerable exposition on the law relating to confidentiality and Articles 10(1) and 10(2). The Tribunal recorded its detailed analysis of the balancing act required between freedom of expression and confidentiality rights. The Tribunal concluded that the councillor was not acting in the public interest and had breached paragraph 3(a).

Decision - No sanction due to several mitigating factors.

West Somerset 222

Councillor breached 3(a) of code by disclosing information about officer salaries given to him in confidence.

Decision – 3 months' suspension.

Recommendation – Council should consider how it can develop more co-operative and effective ways of working between members of different political groups and from different parts of its area, and as between members and officers of the Council.

Forest Heath 219

Councillor disclosed confidential information that had been included as an exempt item at a committee meeting and brought office or authority into disrepute by disclosing confidential information and allowing 2 journalists to listen on speakerphones while being interviewed during the ESO investigation.

Tribunal also concluded that inadequate guidance was given to councillor at meeting of full council and that subsequent action, or rather inaction, of chairman of meeting and his advisers led to there being a debate of confidential matters in open Council. Tribunal considered that chairman should have moved the matter to the confidential part of the agenda straightaway or taken steps to close the debate. Situation made worse by Council's poor organisation of its paperwork for meetings. No contrition shown by councillor. Person whose details were revealed had been publicly humiliated.

Decision - 12 months' suspension

Recommendation - Council should urgently review its processes and procedures as they relate to the preparation of papers for and the conduct of council meetings so that a repeat opportunity for such disclosure can be minimised. Standards Board also recommended to issue further guidance to respondents before start of investigation outlining procedures and timetable and nature and status of interviews.

Gloucester 205

Councillor asked question at Council meeting about a severance agreement between a senior employee and the Council in spite of advice not to, and breaches of confidentiality, including a confidentiality clause, in the agreement. Tribunal found there was a breach of 3(a) but not 4.

Tribunal took into account that dissemination of information about the agreement to councillors could have been better handled by the Council, long record of good service, letter of support, and negative impact any suspension of active deputy leader would have on workings of Council.

Decision - Reprimand

Recommendation - All members of Council should receive training on the Code.

Lancaster 143

Report taken in private session in reliance on part 7 of schedule 12 to the LGA 1972. Councillor placed the information in the report in the public domain on basis that it was in the public interest, that not to have done so was a breach of paragraph 4 of code, and that confidentiality provisions in code did not apply to exempt information. Post facto justification was also pleaded.

Tribunal took into account inter alia fact that Councillor had received prior specific advice against action, no remorse shown; on the other hand, no harm caused, Councillor had good record and had openly admitted releasing the information.

Decision - 3 months' suspension

Shaftesbury 158

Council considered matter in private session but Councillor accused of disclosing information to public and media, some of which was subsequently shown to be already in the public domain.

Tribunal considered aspects of the process etc for resolving to go into private session; in the Tribunal's view, paragraph 3(a) of the code could not operate to prevent a councillor disclosing information, which should never have been kept from the public having regard to the terms of the legislation as demonstrated by paragraph 3(b).

Tribunal also considered that if information given in confidence has been improperly made public, this does not mean that it loses its confidential nature and can therefore be recited in public with impunity.

Tribunal considered Council had given inadequate consideration to basis on which public were to be excluded; no reasons were given in minutes.

Decision - No breach

Recommendation - District council to prepare guidance note for town council members on circumstances under which it is appropriate to exclude public and press and the procedure to be adopted.

Walsall 163

Case concerned unauthorised disclosure of confidential information re results of tendering exercise for sale of council land and alleged breaches of paragraphs 3(a), 4 and 5(a). The councillor put pressure on an officer to disclose; the officer had told only the successful tenderer of the results but this did not equate to placing the information in the public domain and no contract had been signed. The Tribunal applied tests laid down by Megarry J. to determine confidentiality.

The Tribunal refused a request that the hearing be cancelled, as the councillor was not standing for re-election in the imminent election as it considered such a cancellation would not be in the public interest.

Decision - 1 year disqualification

Recommendation - A procedure be adopted by the council for considering in appropriate cases any community benefit of the tenders as opposed to monetary consideration.

DISREPUTE AND DISRESPECT AND SECURING ADVANTAGE ETC

Rushcliffe 339

An Individual Voluntary Arrangement concerning the respondent had been in existence when he signed the code and he had remained in office in contravention of Section 80 LGA 1972. The ESO asked that the matter be declared not to be a code breach in view of developments since the case was referred. Case involves an insight into the developing law surrounding Section 80 and the effects on the code.

Decision - No breach

North Lincolnshire 325

The leader of the council had been convicted and ordered to pay substantial fines for offences relating to deposit of waste without a waste management licence. He had repeatedly ignored letters from the Environment Agency and his actions were in conflict with his council's environmental policy. Tribunal took into account several mitigating factors and the fact that he had already received a three month suspension for a matter that occurred concurrently with the above matters.

Decision - 3 month suspension

Whitworth 336

Town councillor was company secretary of a leisure company which ran the local civic park. Councillor was fined for a number of statutory breaches relating to failure to carry out his duties and as a result a loss of several thousand pounds was incurred by the council.

Tribunal took into account long service as local authority employee and councillor for nearly sixty years, and his unpaid work for the town council to rescue it from a difficult position after an official had absconded with £140,000 of public funds.

Decision - 3 month suspension

Sefton 346

Respondent was banned from driving by court for second time in three years having been found to be more than three times over legal limit.

Decision - 1 year disqualification

Blackburn with Darwen 344

Councillor convicted of offences involving selling food after “sell by” date and selling unlabelled goods at his grocery shop. The offences were absolute, took place over a short period of time, did not call into question the integrity of the councillor who had implemented steps to ensure no repetition and had reported himself. Tribunal did not consider that a reasonable person knowing all the facts would consider he had brought his office or the council into disrepute.

Decision - No breach

North Kesteven 343

Councillor convicted of drink driving had reported herself to officers. Several mitigating factors and substantial medical and bereavement factors.

Decision - Reprimand

Westminster 337

Councillor convicted of making benefit applications to her council without declaring councillor allowance.

Decision - 15 month disqualification

Wellingborough 332

Councillor had been convicted of using racially abusive and insulting language towards two members of the public.

Decision - 18 month disqualification

Slough 322

Relations between councillor and several junior and senior officers had broken down as result of disrespectful behaviour towards officers, sometimes in public, and disreputable behaviour including pestering female staff and making numerous unjustified accusations against officers over a period of two years. On many occasions he expressed himself in unacceptably rude and aggressive terms. Council officers and the Standards Committee chairman offered to help him, but he refused. He was a hard working councillor but behaved as if he was outside the Council and not subject to its rules and regulations.

Decision - 1 year disqualification

Lincolnshire 299

Former council leader accused of nine breaches of the Code as a result of actively seeking to remove the then Chief Executive by a pattern of behaviour intended to undermine, demean and demoralise him. After previously denying most of them, the councillor admitted them all on the final day of the hearing. Tribunal

emphasised sanction would have been much higher but for councillor's otherwise long and unblemished local government service and other mitigating matters.

Decision - 15 month disqualification

Birstall 326

Councillor persistently disobeyed chairman's rulings at meetings, refused to be quiet, and at two meetings had to be asked to leave by the police. Councillor had already been suspended for three months by Borough Council's Standards Committee relating to other matters.

Decision - 1 year disqualification

Sonning 324

Councillor breached 4, 7 and 13 of the Code in the way he misrepresented constituents' views on a planning application. Tribunal found that councillor had little understanding of the key issues, little understanding of the Code and misunderstood his role as a councillor. During the hearing, the councillor was warned that his conduct at the hearing was likely to constitute a breach of 2(b) both in the way he handled the case and referred to local residents and councillors, and the sometimes rude way he addressed the Tribunal.

The Tribunal had very grave doubts about the councillor's abilities to serve as a councillor on the parish or any other council and was much attracted to the sanction of disqualification suggested by the ESO's counsel, notwithstanding High Court guidance.

Decision - 12 months' suspension

Recommendation - Councillor to undertake intensive training in the Code and in particular into the role, responsibilities and duties of a councillor.

Redbridge 305

A two minute altercation took place in a post office between the shopkeeper and a councillor about a controversial road closure during which each gave as good as they got. In the context of long running local campaigns about the issue and in the absence of swearing or profane or discriminatory language by the councillor, tribunal concluded that few people would consider that the council or the office had been brought into disrepute.

Decision - No breach.

Islington 211, 212, 213, 214, 215

The longest case ever dealt with by the Panel. Councillors were accused of manipulating the appointment process of a chief executive. Useful insight into problems with recruitment procedures and practices when candidate(s) has political background and involvement of assessment processes and external consultants.

Decision - No breach.

Horsham

Councillor was found to have brought office of councillor into disrepute by not complying with licensing and planning law relating to activities and accommodation on her property; not being honest and open about business activities on her property; not before taking steps to ensure business on her premises was correctly registered and paying council tax; not taking immediate and appropriate steps to deal with issues relating to residential occupation of unsafe and dangerous premises; and by reiterating to council officers that she would use her position on the Council to her advantage if she could.

Decision - 2 year disqualification.

Bude-Stratton 301

Councillor asked sister in law (who worked on mental welfare matters for another local authority) to write a letter on her employing authority's headed notepaper about matters related to the conduct of the Town Clerk which was then distributed by the councillor to other members of the Town Council. Tribunal found that paragraph 4 had been breached but did not find breaches in relation to other paragraphs which were complained of. Councillor had resigned.

Decision - Reprimand.

Hackney 295

Councillor was convicted of benefit fraud having failed to disclose his basic member allowance of £8,000 pa and in spite of a memorandum of guidance to all members from the Monitoring Officer on the need to disclose the allowance.

Decision - 2 year disqualification.

Wokingham 294

Councillor had been convicted of being in contempt of court.

Decision - 6 months' disqualification.

Ipswich 289

Former Council Leader wrote two letters on council members' headed notepaper to the young daughter of fellow councillor in his own hand and signed one in the name of the Chief Executive. Tribunal formed the view that conduct was foolish and inappropriate and silly and a childish practical joke but did not bring council into disrepute. Tribunal considered councillor was wrong to sign letter in name of Chief Executive but that the use of the headed notepaper did not breach 5(b) as the council did not have a protocol that covered this at the time.

Decision - No breach.

Ravenfield 285

Councillor had sought to frustrate the rights of other councillors to see documents and to be involved in decisions of the Council, had acted unlawfully and knowingly misled a government department; had knowingly misled council meetings; had expressed a wish to disrupt the workings of the council if she was re-elected to it.

Decision - 4 year disqualification.

Maldon 283

Councillor assaulted another councillor during a wreath laying ceremony and had already served a five month suspension for assaulting the same councillor on another occasion.

Decision - 6 months' disqualification.

Gloucestershire 282

Councillor was convicted of criminal offence involving taking of improper photographs of women without their consent or knowledge in a public place on a number of occasions.

Decision - 1 year disqualification. Tribunal took into account long period of Service including cabinet member of County Council, District Council Standards Committee, and police authority.

Tewkesbury 281

Councillor sent rude and intemperate emails and letters to other councillors and had breached 2(b) of Code; had made a rude, disrespectful and threatening telephone call; had used extreme and threatening language contrary to paragraph 4 of the Code; had used threats and physical force against another councillor.

Decision - 1 year suspension. Tribunal took into account mitigating factors including apology, medical evidence and long service and commitment.

Leiston 279

Councillor was breathalised and found to be more than three times over the legal limit whilst driving. When police officer opened boot of car, a truncheon and machete were found which the councillor said he kept for self defence. Councillor was convicted of offences arising.

Decision - 2 year disqualification.

Berwick 278

Councillor insisted on making a complaint about a named officer at an open Council meeting in spite of Monitoring Officer's advice that this should only be done in closed session.

Decision - 1 year suspension.

Vale Royal 273

Councillor had accepted a police caution after being arrested for using a Council laptop computer to download inappropriate material including child pornography from the internet. The material had come to light during the course of a routine upgrade by Council staff. Tribunal took into account resignation from office, acceptance of police caution and acknowledgement that he had breached Code.

Decision - Disqualification for 4¹/₂ years.

Stowmarket 260

Councillor alleged to have made a racially offensive comment to a member of library staff. Tribunal's decision contains a useful exposition of thinking on the requirement for having reasonable proximity or reasonable capability of linking, or having a bearing on, official capacity against the background of the freedom of expression provisions in Article 10 of the ECHR and the phrase "*any other circumstance*" in paragraph 4 of the Code

Tribunal considered the case to be borderline. It accepted councillor's submission that this was an attempt at a poor joke without bad motive but using poor racial epithets and took into account his serious ill health and discharge from hospital the previous day. Tribunal was not satisfied that the words spoken were "*in any other circumstance*" for the purpose of paragraph 4 of the Code.

Decision - No breach

Cloughton 245

Councillor, who was the Council's Youth Liaison Officer, was asked to help by the owner of a bungalow who was being subjected to anti social behaviour by 3 minors of approximately 15 years age. The councillor grabbed one minor by the neck, dragged him away and threatened him. The councillor had since apologised and indicated he wished he had sought assistance from the local police who gave evidence of his good character.

Tribunal took into account councillor's good record of 5 years' service, absence of an apology from minor or his mother for loutish behaviour and made its views known on this sort of behaviour in society. It acknowledged that some form of sanction would nevertheless be appropriate and proportionate.

Decision - 2 months' partial suspension from any formal role in relation to children and young persons.

Publicity - The ESO had asked that the press and public be excluded from the hearing to ensure no prejudicial publicity for the minors if their names were inadvertently revealed. The Tribunal decided there was a public interest in the hearing being held in public but directed that the names of the minors should not be disclosed and that, if they were inadvertently revealed, they should not be made public.

Lincolnshire 258

Former Council Chairman visited husband at police station following his arrest for drink driving. As she drove away from the police station she was stopped and asked to provide a breath sample but failed to do so and was subsequently fined and banned from driving for 18 months.

Decision - No sanction; Councillor had been defeated at the recent election. In the Tribunal's view, a disqualification would have been excessive, although had she still been a councillor, Tribunal indicated it would have suspended her for a substantial period.

North West Leicestershire 259

Councillor had been given a conditional discharge after pleading guilty to an offence under the Public Order Act 1986. Under provocation, he had used intemperate and insulting language to another councillor which was heard by members of the public. At the time of the events, the councillor was naïve and inexperienced and it was evident that he had learnt the error of his ways.

Decision - Reprimand

Islington 216

Councillor on the selection panel for a Chief Executive was accused of applying a criterion not included in the person specification. Tribunal was not satisfied that the interpretation placed on the wording of the specification by the councillor was unreasonable; the Tribunal was satisfied that this particular criterion was applied fairly by the councillor to all candidates.

The Tribunal expressed concern that the councillor had received no training on recruitment and selection or equal opportunities and that the Council's procedures were apparently ignored at the short-listing meeting, notwithstanding the pressure of the Monitoring Officer. Notwithstanding the Council's requirements that adequate and legible notes of interviews should be maintained, the notes available to the Tribunal of a very important short-listing meeting were incomplete, inadequate and provided no evidence of a systematic approach to the process.

Recommendation - Council should review its recruitment and selection procedures and ensure participating members are adequately trained and that recording of decisions within those procedures is properly documented.

Nottinghamshire 251

Case concerned a Councillor attending a Masters Degree in Public Administration course at public expense and the administrative procedures surrounding this within the Council, an international study tour in the USA, and the cost of over £2,000 incurred in using business class flights booked for the Councillor by the Chief Executive, all of which had attracted adverse media publicity.

Decision – Insufficient evidence to warrant finding Code breached.

Recommendation – County Council should review its administrative procedures for members' training.

Slough 255

Councillor reported himself to the Standards Board for mistakenly failing to disclose his convictions on an application form for a renewal of a hackney carriage licence. Tribunal found that his regret was sincere and that the breach was inadvertent.

Decision - No action.

Recommendation - Application Forms referred to should be made available in languages other than English and clear guidance should be made available to applicants including the necessity to disclose all previous convictions.

Banham 249

Councillor launched a series of sustained, premeditated, intimidatory actions and threats against a member of the public whom he pursued on a public footpath after spying on him with a video camera, and ambushing him with two rottweilers and a friend for which he received a police caution. He also launched a pre-meditated tirade of abuse and insult against a member of the public present at a parish council meeting.

Decision - 4 years' disqualification.

Recommendation - Parish councillors should receive induction training as soon as they become members of the parish council and training of clerks and chairmen of parish councils should be encouraged to assist them in running effective meetings.

Northamptonshire 243

Councillor had been convicted of offence of actual bodily harm against wife, sentenced to community punishment order and resigned from Council. Tribunal took into account several mitigating factors and concluded that, in the particular circumstances of the case, disqualification would not improve reputation of local government or members, nor act as a deterrent or a punishment.

Decision – No sanction.

Lewisham 231

Councillor resigned after pleading guilty to exposing himself in a public library.

Decision - 2 year disqualification. Tribunal took into account fact that it had taken Standards Board over a year to bring case before Adjudication Panel whereas the case had been brought to court 2 days after the offence was committed.

Maldon 230

A physical altercation took place between 2 councillors on private property after a political party meeting. Tribunal found that although the words in any other circumstance in paragraph 4 appear to suggest conduct in "all" circumstances, only that conduct which is sufficiently proximate to, or reasonably capable of being linked to, or have a bearing on, a councillor's official duties is capable of breaching paragraph 4. The accused councillor had not apologised.

Decision - 5 months' suspension.

Tameside 229

Councillor had purported to give residents written permission, without having any authority, to install gates across two public passageways because of anti social behaviour. It was claimed that he had deliberately misinterpreted legal advice from an officer when the councillor wrote to the residents. Tribunal found that a heated exchange between the councillor and a resident resulted in breach of paragraph 2(b) but not 4, but that 4 was breached re the unauthorised letter.

Decision - 6 months' suspension.

Isle of Wight

Allegations related to councillor being drunk on a number of occasions including at a public meeting and at the council offices.

Decision - 2 years' disqualification.

North Lincolnshire 206

Alleged that council leader failed to comply with planning and licence conditions re his waste transfer business and started construction of large storage building without permission. First allegation was thrown out for several reasons but second was found proven re disrepute. Tribunal considered breach to be result of careless and cavalier approach rather than deliberate attempt to use position to gain personal advantage or avoid legal obligations, and also took into account long period of successful public service and apology given.

Decision - 3 months' suspension; start delayed by 2 days to enable council leader to make statement at start of next meeting of full council.

Wyre

Council leader acted in professional capacity as solicitor by representing applicant at licensing committee meeting. Member told committee he was appearing in professional capacity. Tribunal considered that reasonable and objective observer would conclude influence was being exerted even though member may be scrupulous to avoid that impression.

Decision - 6 months' suspension

South Buckinghamshire

Councillor accused of bringing authority into disrepute by building on own land before planning consent granted. Case relates to use of delegated powers of planning officers when applicant is councillor and LGA guidance on this issue and manner in which authorities disseminate and apply it.

Tribunal found insufficient evidence to warrant finding of bringing into disrepute.

Recommendation - Officers should not exercise delegated powers to issue permissions or advice to applicants who are councillors. All members of Council should receive appropriate guidance and instruction.

Restormel 149

Inappropriate behaviour and statements, some of a very public and offensive nature, in private council training event. Subsequently repeated in public. Race context.

Tribunal took into account seriousness; likelihood of future similar breaches by respondent and paid some attention to fact councillor was S.C. member.

Decision - 3 years' disqualification

Restormel 140

Councillor with local business interests. Allegations included supplying misleading information to officers and members with regard to nature of business interests.

Tribunal took into account duress councillor was under and the political climate at the council. Councillor was no longer a member. Breaches technical and/or minor and committed unintentionally.

Decision - No action

Fareham 145

Councillor convicted of 2 counts of fraud re offences before code operative. Tribunal decided no breach.

Councillor also subsequently defrauded Council over benefits claims. Tribunal took into account relevant provisions of General Principles Order.

Decision - 2 years' disqualification

Blackpool 170

Councillor under influence of alcohol at official function breached paragraphs 2(b) and 4. Case concerns capacity, apology and remorse aspects. Decision based partly on manner of what was said and aggressive behaviour rather than content of what was said.

Decision - 3 months' suspension

Barnet 169

Councillor breached paragraph 4 by attempting, by deception, dishonestly to secure the remission of the whole or part of an existing liability for four penalty charge notices and also breached paragraph 4 by improperly attempting to renew a Disabled Drivers permit.

He breached paragraph 5 by using Council notepaper to secure an advantage for his son by writing to the Council concerned seeking remission of liability for the four penalty charge notices. But he did not breach paragraph 5 in telephoning another Council (not his own) and identifying himself as a Councillor because he said he commonly described him-self as such and had not been using his position as a Councillor.

Decision - 1 year disqualification

North Dorset 166

A Councillor was accused of failing to treat officers with respect; bringing his office or authority into disrepute making vexatious or malicious complaints against officers; using his position as a member to confer on or secure an advantage for himself and others and a disadvantage for others; failing to act prudently when using the resources of the Council; omitting to declare the existence and nature of a personal interest at a meeting, not withdrawing from a meeting despite having a prejudicial interest, and feeling improperly to influence a decision whilst having a prejudicial interest.

A number of procedural points were raised including selection of a hearing date, provision of witness evidence by one party in the absence of any advance notice from the other party of the details of their witnesses etc, editing of documents, hearing delay etc. The case arose from a local plan matter.

Decision - 4 years' disqualification

Recommendation - Make programme of training in provisions and application of code available to all members.

Kingston on Hull

Councillor accused of treating officers with disrespect re paragraph 2(b). Wrote an open letter to constituents criticising identifiable officers in an allegedly inappropriate manner. Case tribunal found code breached but took into account mitigating factors including Councillor's lack of experience and fact that normal working relationships appeared to have resumed on all sides. Adjournment requested based on ill-health claim.

Decision - 5 months' suspension

Recommendation - No formal recommendation, but Tribunal expressed concern that all parties to the case had failed to comply with internal procedures and protocols, including the grievance procedure for officers. Authority asked to consider whether or not this identified a training need for members and officers.

East Riding 110

Councillor accused of disclosing confidential information re council officer's salary to newspaper without consent of authorised person or with lawful reason. Councillor was not a member of the committee considering the matter but exercised his right to attend and observe. Apology given was considered late in the day and not made directly to the officer who had been caused distress by behaviour of some members of the public who had read of his salary. Absence of procedures on when confidential material can be released publicly.

Decision - 1 month suspension

Recommendation - Further training for Councillors on when matters are to be regarded as confidential and when disclosure can safely be made.

Ipswich 157

One Councillor drafted and another signed a letter criticising a senior officer, which mixed direct charges with insinuations in a way, which breached 2(b). The letter was intended by the two Councillors to have a wider circulation than the Leader and the Chief Executive. The Tribunal decided that the Councillors' actions had lowered the reputation of their office and that there had been a failure to follow the provisions of paragraph 4. Little evidence of any contrition. The Tribunal took into account that both Councillors represented the same ward, were in the same group and that one was the group leader.

Decision - 12 months' suspension or such period, if shorter, as comprises the remainder of the term of office.

Recommendation - Procedures should be established and notified to councillors to govern the way complaints from councillors about members of staff are dealt with. The criticisms of the officer should now be investigated; the Tribunal stressed it expressed no view as to whether there was any substance in them.

Burnley 196

Alleged that a member physically attacked a member of the public at a private event. The incident was reported in the local newspaper and the member had been involved in a disturbance at the same event the day before. Member had resigned but had not co-operated with the investigation and had shown no remorse.

Decision - Disqualification for 3 years.

Wakefield 183

Alleged that member provided false information to the Child Support Agency, resulting in a criminal conviction, which attracted media publicity. Councillor's former wife claimed that she had made representations to the leader of Wakefield MDC, following the conviction. She received a letter from a firm of solicitors suggesting that legal proceedings would be taken against her to secure a Restraining Order.

Decision - Tribunal took into account that member did not co-operate openly, fully and honestly with the CSA investigators or the ESO's investigator.

Disqualification for one year

Recommendations - Council review training of councillors particularly with regard to Paragraph 7 and that Council review its procedures re potential code breaches drawn to their attention.

South Derbyshire 150

Councillor was alleged to have breached copyright provisions by publishing local history pamphlets in his own name. He did not refer to himself in them as a councillor but was referred to as such in the extensive publicity given to the allegations. Councillor also received a police caution for making telephone calls contravening the Harassment Act 1997. Tribunal found councillor had breached paragraph 4.

Decision - Disqualification for 18 months

DECLARATION AND REGISTRATION OF INTERESTS

West Wiltshire 356, 357

Husband and wife councillors failed to register interests, failed to declare personal and prejudicial interests and sought improperly to influence decisions. One of the councillors attended a standards committee hearing into a dispensation application by the other councillor and failed to declare an interest and withdraw from the room. Other breaches related to failure to register chairmanship of a governing body and declare membership of campaign groups.

There was no personal gain, all the breaches arose from one set of circumstances and the councillors had many years of good service.

Decision - No sanction for wife; censure for husband and recommendation for training.

Tribunal recorded that there had been no training on the code for councillors until 2005; that the council had 3 permanent and 3 temporary monitoring officers in 3 years; that several of the council's members had been referred to the Panel and that, contrary to the practice in most other councils, the monitoring officer had not attended the hearing.

Hinckley and Bosworth 340

Council Leader committed eleven breaches and was already the subject of a partial suspension for nine months. Tribunal took into account there had been no personal gain, little or no training and on occasion councillor had received poor advice.

Decision - 3 month suspension

Dartford 338

Councillor committed breaches in relation to declaring interests and updating the register. He had acted in the best interests of his constituents, had made no financial gain and expressed a willingness to receive training. He admitted he had never read the Code. Tribunal stated that seeking advice in the course of a meeting was not a substitute for the need for councillors to familiarise themselves with the Code and that serious view would be taken of any subsequent breaches.

Decision - Reprimand

Bude Stratton 276

Councillor found to be in breach of several paragraphs of the Code but individually and collectively they did not warrant disqualification. It was apparent that the administration and conduct of meetings was at times shambolic. The councillor was no longer on any council and had said he would not stand again.

Decision - Reprimand

Recommendation - That the relevant authority considers providing a training programme in relation to the Code and proper arrangements to enable members to effectively operate within it.

Hinckley and Bosworth 271

Cabinet chairman failed to declare personal and prejudicial interest on two occasions and made statements she knew to be untrue at her parish council meeting. Councillor had at times been less than frank in the evidence she gave and tribunal deprecated her repeated attempts to blame a number of Council employees for her own failures.

Decision - 9 month suspension

Recommendation - Councillor should receive further training on the Code.

Thornaby 330

Councillor was criticised in an Employment Tribunal report which found that the clerk had been unfairly dismissed. Councillor had been subject of outstanding grievance lodged by the clerk but he seconded a motion to dismiss the clerk and said he would resign if the clerk was reinstated. Tribunal considered that the councillor had failed to understand the seriousness of his actions and that there was little prospect of his adopting a different approach to public life.

Decision - 2 year disqualification.

Middlesbrough 329

Councillor had attended two meetings in a non-voting capacity but had failed to declare a personal and prejudicial interest. Although she had received clear advice from officers, she had received an invitation to attend from the chairman of one of the meetings who was an experienced councillor and did not believe the invited member was prevented from attending. There had been no face to face training for members on the Code although the authority's written advice had been excellent. The member had declared interests appropriately since the two incidents.

Decision - No sanction, although the Tribunal recorded that councillor should be in no doubt that it deprecated her behaviour.

Recommendation - Training on Code be offered to all members.

Kingshurst 313

Councillor has sought personal gain by attempting to obtain approval of the use of council money to obtain legal representation against an individual member of the public with whom he was in conflict and failed to declare prejudicial interest. Had also without authority used council money to instruct solicitors to cancel a public meeting.

Decision - 15 months' disqualification

Recommendation - The relevant metropolitan council should ensure that councillors and relevant officers of the parish council have received and continue to receive training and guidance on the code, standing orders and the obligation not to use public office for private gain.

Kingshurst 275

Councillor used office to secure personal advantage for himself by drafting letter for parish council chairman to sign. The letter sought to expedite the councillor's renovation grant application to the metropolitan council and falsely stated that the parish council was concerned about the matter. Councillor also compromised impartiality of clerk by persuading clerk to retype letter containing false statements about parish council business and to sign it on behalf of chairman.

Decision - 6 months' disqualification

Recommendation - The relevant metropolitan council should ensure that councillors and relevant officers of the parish council have received and continue to receive training and guidance on the code, standing orders and the obligation not to use public office for private gain.

Landersednach 314, 315, 316

Three councillors had failed to declare interests on several occasions. Tribunal accepted that their economic interests were not their sole motivation and took into account several character references provided.

Decision - 9 months' suspension

Recommendation and its
(1) Councillors should undertake training on Code effect.
(2) Monitoring officer should
- undertake review of parish council's procedures and consider extent to which training and guidance is required by all members
- consider way in which minutes are prepared and approved and how approval and amendment to the minutes are recorded.

Lamerton 311

Councillor failed to declare personal and prejudicial interest re village hall development next to her home on several occasions over a period of eight months.

Decision - 5 months' disqualification.

North Dorset 310

Councillor had failed to declare interest in planning application for substantial development close to his home. Had shown contrition.

Decision - Reprimand

Recommendation - Strong recommendation to district council that it carries out thorough review of training needs of members and officers on Code and keeps them under regular review. Tribunal expressed concern that letters of support for the councillor from other councillors indicated a widespread misunderstanding of the Code on their part; that no officers or the committee chairman had expressed concern about the councillor's interest; that the view of the county council monitoring officer was wrong.

Thorne Moorends 308

Councillor had deliberately sought personal gain for himself and others at the public's expense by exploiting his membership of an external body on which he represented the council. Councillor showed no sign of appreciating the gravity of his actions.

Decision - 12 months' disqualification

Recommendation - Training should be provided by the metropolitan council for all four councillors in the district.

North Norfolk 321

Councillor had a personal and prejudicial interest in a planning application made by company of which he was managing director. Councillor announced at committee that he would be speaking in a private capacity on behalf of the applicant and then spoke after the committee had heard the officer's advice that he should not. Tribunal took into account that neither chairman nor any other members of the committee attempted to ask the councillor to stop and that the evidence indicated that the monitoring officer had not provided the councillor with a detailed explanation of why the councillor should not speak in spite of the councillor's request for such an explanation.

Decision - 12 months' suspension

Cumbria 292

Councillor failed to declare any interest at a number of meetings concerning road scheme affecting the road in which he lived contrary to paragraph 12 and carried out a door to door survey in the road in a way which breached paragraph 4.

Decision - 9 months' disqualification.

Recommendation - County Council might wish to consider a greater consistency in procedure at all its relevant meetings to ensure that the identity, status and roles of attendees

is recorded and that appropriate opportunities are provided for declaration of interest.

Norton Canes 290/291

Two councillors had failed to declare personal interests and the nature of those interests relating to development of a church hall site. Part of the case revolves around the application of the well –being test. Tribunal took into account that they were elected only fairly recently and had not received much training in the Code and that their evidence showed an unsatisfactory understanding of the Code and its application to personal interests. Tribunal took into account that much had been done since the complaints to improve the situation.

Decision - Reprimand.

Recommendation - Respondents should be provided with training from the Monitoring Officer and the Monitoring Officer should be requested to meet with the Parish clerk and others to review and give guidance and support as necessary on general governance issues.

Berwick 278

Councillor failed to declare at several meetings any interest in council land the subject of a development proposal. His daughter lived in close proximity to the land, used it regularly for recreation and had lodged an objection to the development proposals. Councillor continued to attend meetings without declaring an interest even after being put on notice that he should consider his position.

Decision - 1 year suspension

Hungerford 268/269

Case involved alleged breaches of 2c, 4, 5a, 10a and 10b and concerned Town Council's observations to District Council on planning applications, site visits, planning application by Town Clerk who was close personal friend of Council Chairman, failing to declare a prejudicial interest in a grant application from a body of which the respondent was the Chairman.

Decision - 12 months' suspension from Council's Planning and Finance Committees.

Southsea 266

A former councillor had failed to disclose membership of certain organisations in the register as required under 13(c) of the Code. He had also refused to confirm whether or not he was a member of the Freemasons and was, as a result, held to be in breach of paragraph 4.

Decision - Disqualification for one year for breach of paragraph 4 but no sanction for breach of 13(c) because of the individual circumstances.

Lyme Regis

Councillor accused of a large number of breaches, mostly relating to declaration of interest provisions and contained in over 600 pages considered by the Tribunal. Tribunal took into account councillor's long service, willingness to apologise to the Council and length of time since events complained of.

Decision - 6 months' disqualification.

Recommendation - In view of large number of concerns revealed about the conduct of some aspects of the Town Council's business, the District Council was recommended to review, identify and provide any training that would assist the Town Council with the discharge of its functions, and in particular Code of Conduct training required by the Town Council members.

Keelby 244

Case involves aspects of a former Parish Councillor living near to a planning application site for development proposed by the Parish Council, membership of a lobby group, seeking advice from the Monitoring Officer and Parish Councils Association and objection to application lodged by spouse. Councillor had resigned

Decision - 3 months' disqualification

West Somerset 223

Councillor breached 5 (a), 9 and 12 of Code by not declaring a prejudicial interest in proposes to relocate the Council's offices. Tribunal emphasised that decision on whether councillor has a personal and prejudicial interest is one for individual councillor to make and not one that can be off-loaded onto officers. Tribunal concerned at lack of knowledge of Code displayed by some councillors called as witnesses.

Decision – 12 months' suspension.

Recommendation – Council should review, probably with external assistance, level of understanding of members of the Code, arrange training, and keep records of member attendance at training events.

Kettering and Northamptonshire 228

Case concerned a Councillor who ran a franchise restaurant and whose wife's positions included president of the local Chamber of Trade. He declared only a personal interest in a debate about proposed changes to the local parking scheme. It was also claimed that he sought, improperly, to influence officers' reports and behaved improperly towards the Monitoring Officer.

Decision - 9 months' disqualification. Tribunal recorded its deep concern at the councillor's behaviour towards the Monitoring Officer.

Tandridge 235

Councillor had personal and prejudicial interest in a planning application and had been advised of this by Monitoring Officer. He declared his interests at a number of meetings but stayed and spoke and then reported himself to the Monitoring Officer. Tribunal found breach of 13(a) and 13(b).

Decision - 18 months' disqualification.

Bedford 184

Councillor ran an architectural design service on his own account. Complaints related to representations he made to the Planning Committee as agent for clients and his initiation and participation in a committee debate about an amendment to a planning policy.

Tribunal found that paras 9 and 12 had been breached.

Decision - 1 year disqualification.

Recommendation - Advice to members on Code should be given in writing; current advice to members re attendance at meetings and 'right to speak' should be reviewed.

Macclesfield 171

Councillor did not comply fully with paragraphs 8 and 10 re planning application but had undergone training and apologised for his omissions.

Decision - 6 months' suspension from discussions or decisions relating to planning matters.

Recommendation - Authority's procedures and practices relating to advice to members on probity and conduct should be reviewed and role and responsibilities of Monitoring Officer and deputy should be clearly defined and promulgated.

Macclesfield 164

Councillor named in an Ombudsman report participated in a Council debate on the matter. Tribunal considered arguments re human rights and natural justice in relation to wording of code; found that he had sought to improperly influence decision.

Decision - 1 year suspension

Recommendation - Authority should review its procedures in giving detailed and timely advice to members on matters of compliance with aspects of the Code, including those concerned with human rights and natural justice.

Bridgnorth

Several breaches but Tribunal took into account that they mainly all stemmed from same fact, namely that Councillor had not considered she had a prejudice interest in relation to the planning application; that she had been mistaken and misguided but not motivated by personal gain; that she had long period of public service and had received considerable support.

Decision - 3 month suspension

North Pemberton 192

Councillors entries in the register pertaining to his occupation and interests in land were not sufficiently clear and he had refused to comply with requests to amplify them.

Decision - 1 year disqualification

South Somercote 160, 161, 162

Three councillors living in close proximity to the site of a planning application were advised by the monitoring officer that they had a personal and prejudicial interest but remained in the room and voted. They also signed a letter as parish councillors to the district council, opposing the development.

Decision - 2 months' suspension for 2 councillors still on council and 2 months' disqualification for 3rd councillor who was no longer on council.

Recommendation - Parish council should review its induction and training arrangements for councillors with the monitoring officer.

BULLYING

Chard 354

Mayor committed three breaches of the code. After discovering town clerk was no longer living with her husband, he invited her to go on holiday with him at his expense and said he would pay for anything she needed. Mayor gave town clerk a present of £500 and told her he was infatuated with her. Town clerk returned the £500 cheque, declined the holiday offer and, after consulting the finance officer, confirmed her response in writing.

Mayor issued press release making unjustified inferences about the town clerk and published her ex directory home telephone number which she had never released to the mayor. Town clerk lodged a grievance against the mayor who responded by issuing the town clerk with a formal written disciplinary warning.

Tribunal took into account evidence of strong local support for mayor in spite of his conduct and considered he should have the opportunity to stand in the next elections.

Decision - 8½ month disqualification

Recommendation - Town council should adopt a rule preventing the councillor who is the town clerk's line manager from also being the mayor to provide the town clerk with an appropriate alternative contact, in the form of the mayor, in the event of a serious dispute ensuing between town clerk and line manager.

Chichester 348

Cabinet member sent, usually late at night, a long series of sarcastic, disparaging and inappropriate emails, letters and comments at public meetings to senior and junior staff. Fellow councillors attempted to mediate but the situation worsened with aggressive behaviour towards employees, an insensitive comment about a recently deceased officer and a demand that the chief executive sack all the IT staff. Councillor improperly tried to pressurise IT staff into awarding contracts to software firms with which he was associated. Subsequently, the chief executive banned the councillor from having any access to IT staff. Councillor sent disparaging email about chief executive and leader to eleven senior local government figures but did not tell the leader who heard about it from the chairman of another local authority. Other chief executives spoke to the councillor's chief executive about the email and the senior management team took the unprecedented step of writing a letter to the leader and deputy leader stating that the situation had become totally unacceptable.

Tribunal disagree with the ESO's view that the comments about the leader in the letter to eleven senior local government figures were not breaches of the code because they were robust political comment which had to be tolerated. Tribunal said ESO was wrong and found that this and numerous other incidents meant the code had been breached.

Decision - 1 year disqualification

West Oxfordshire 323

Case concerned variety of issues including allegations that councillor put pressure on planning officer regarding the councillor's applications for planning permission and that he intimidated a fraud investigation officer looking into whether he had assisted someone to make a fraudulent benefit claim.

Decision - Reprimand

Recommendation - Standards Committee to review undertaking by respondent to send all correspondence to officers in draft form to council leader first and to review undertaking by respondent to communicate only with senior officers. Standards Committee to arrange training for respondent on code and member/employee relations. Council leader had also undertaken to speak to staff about the matter.

Haverhill 319

Councillor carried out a relentless campaign of destructive criticism in bad faith against the clerk and fellow town councillors without any evidence to support his allegations. In a five month period he made thirty-two written complaints to the council about its employees and other councillors, nineteen complaints about councillors to the Standards Board, none of which was considered worth referring for a hearing and there were several others both to the Board and via a website which were believed to come from him under a pseudonym. The owner closed the website down because of its misuse, the police were involved, three councillors resigned from the councillor's group in protest and a few months before the tribunal hearing, the councillor himself resigned claiming this was due to the clerk's serial bullying.

Decision - 3 years' disqualification

Recommendation - Borough council should review its training for new councillors particularly independents outside the normal political support structures and ensure that appropriate training is available for councillors who join these councils out of the normal electoral cycle.

Wells 318

Councillor constantly became irate about a number of issues including toilets, flags and ashtrays. He shouted and ranted at the clerk and was constantly irate and confrontational, sometimes making false allegations and taking actions on behalf of the council which he had not authority to take.

Decision - 9 months' suspension

Oswestry 312

Councillor did not treat clerk or local constabulary with respect, interfered with the relationship between the town council and its suppliers and caused the council to incur unnecessary expenditure.

Decision - 12 months' disqualification

Watermead 309

Councillor behaved in abusive and disruptive manner at council meeting and council passed resolution about his conduct. He sent abusive emails using foul language to other members. Councillor had apologised and resigned. ESO did not consider disqualification warranted.

Decision - Reprimand

Bedford 296

Councillor represented local resident in a private capacity for remuneration against the council in a claim for adverse possession. The councillor wrote a letter accusing two named officers of lying and alleged that they and others were involved in a conspiracy to defraud a widow. No proper apologies were given by the councillor.

Decision - 6 months' suspension

Malvern Hills 280

Councillor bullied employees and was rude to other councillors. Standards Committee had attempted to curb his behaviour without success.

Decision - 3 months' suspension

Recommendation - As the councillor had expressed a desire to improve his conduct, Standards Committee and monitoring officer were recommended to undertake a review of the councillor's training needs with the councillor's co-operation.

Wigan 248

Councillor insisted on a private meeting with an officer during which he attempted to coerce him to influence a subordinate officer against giving evidence about him at a forthcoming APE hearing at which the councillor was due to appear. Councillor was already disqualified for 3 years by a previous case tribunal some 18 month's before.

Decision - Disqualification for 2 years which would mean his existing disqualification would be extended.

High Peak 256

Councillor sent numerous inappropriate and abusive emails to members and officers which were often copied to organisations outside the authority. He was in breach of the Council's bullying and harassment policy, its protocol on the use of ICT and in breach of the Chief Executive's guidance on complaints about officer conduct. The Chief Executive had withdrawn the Council provided laptop from the councillor and banned him from using the Council's intranet but he continued his practices by using other means.

Decision - 2 years' disqualification.

Forest Heath 253

Councillor made malicious allegations about an officer's integrity and professionalism on a letter to the Leader, Chief Executive and other senior officers and members. He was found to have breached 2(b) and 4 of the Code. The Full Council endorsed the decision of its Planning Committee to approve a vote of confidence in the officer and refer the member to the Standards Board. The officer had been very distressed about the allegations and instructed his own solicitors.

The letter was written before an internal investigation had been completed into the matter which did, in fact, raise legitimate concerns about recording procedures and protocols at council meetings which were subsequently addressed. Councillor, during the hearing, apologised for his conduct but there was no evidence that he had previously apologised or expressed any contrition for the obvious distress he had caused the officer.

Decision - 9 months' suspension.

Recommendation - Councillor should make a written apology to the officer for making unsubstantiated allegations against him.

North East Derbyshire 239

Councillor who had been Leader for 17 years was found to have used abusive and foul language to a number of employees on different occasions including the Chief Executive and a lorry driver and to have behaved in an intimidating manner to them. He had also been inappropriately involved in a Trade Union negotiation with which his son was involved as a shop steward and had failed to declare a personal and prejudicial interest.

Decision – 3 years' disqualification.

East Riding 234

Although not concerned directly with bullying, case concerns roles of members and officers re child protection matters. Tribunal found that councillor abused her position, compromised the impartiality of officers, and improperly conferred an advantage on someone else and brought office and respondent into disrepute. Councillor failed to appreciate role of councillor and duties and responsibilities of office and failed to appreciate seriousness of issues involved.

Decision - 1 year disqualification

Recommendation - Council should review training given to members in duties and responsibilities of councillor to ensure it is of sufficient scope and depth.

Immingham 144

Case alleged that councillor conferred on or secured a disadvantage for the Town Clerk, failed to treat Town Clerk with respect; and brought office or authority into

disrepute in way he behaved to Town Clerk. Accused Town Clerk of lying, siding with a political group, being political, falsifying minutes and using her sex unprofessionally.

Decision - Member/officer relationship had broken down but little appeared to have been done by either party or other members to repair damage. Although the Town Clerk's conduct was not faultless, the member's conduct was unacceptable and showed no sense of the responsibilities imposed by the code or any likelihood of change.

Disqualification for 3 years.

Sidmouth 198

Councillor accused of failing to treat others, including staff, with respect; attempting to compromise the impartiality of the authority; conducting himself in a manner which could reasonably be regarded as bringing his authority or office in disrepute. Only the first ground was found proven. Councillor did not attend due to illness but gave unconditional written apology to staff. Authority had taken measures to ensure councillor had restricted access to council premises.

Decision - No further action needed.

2nd October 2006

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It was good to see so many familiar faces and meet new members and officers at our exhibition stand at the recent Local Government Association Conference in Bournemouth. Many visitors to the stand were interested, and pleased, to hear about the proposed changes to the Code of Conduct.

There were also a number of comments about the transfer of the system for assessing allegations to principal authorities. While most people welcomed the benefits of a local system, a number had concerns about managing the function and the problems that authorities will face if they have a large number of parish and town councils in their area. This is all helpful feedback and we will ensure we respond to it by focusing our work on supporting authorities at a local level with guidance and advice. We will also call for standards committees and monitoring officers to be properly resourced.

I will be on our exhibition stand at the three party conferences in September and October and look forward to talking to a lot more of you there, as well as, of course, at our annual assembly in October.

David Prince, Chief Executive

'Devolution and Evolution' - Annual Review published

The devolution of the responsibility for the ethical agenda, increased local ownership and the changing role of the Standards Board for England are the key themes addressed in our *Annual Review* 2005-06.

The review focuses on the shift in ownership of the conduct regime to a local level. The majority of cases are now being dealt with locally and the introduction of a system of local assessment of complaints is proposed for 2008. We are committed to increasing the number of investigations at a local level and providing training, support and guidance to local authorities to achieve this. The review details the change in our work as we become a strategic regulator, overseeing the ethical framework and encouraging responsibility at a local level to continue to grow.

The review also details our achievements over the past year, which include:

- A successful consultation and review of the Code of Conduct, now awaiting implementation by government
- The initial assessment time for complaints reduced to nine working days

- Effective partnership working with other local government organisations to develop an ethical governance toolkit for authorities to gauge their ethical performance
- The Fourth Annual Assembly of Standards Committees, which focused on greater local ownership of the ethical agenda

Copies of the *Annual Review* and our *Annual Report* are now available on our website www.standardsboard.co.uk

If you would like a hard copy of either publication please email publications@standardsboard.co.uk or phone 020 7378 5000

The referrals process — what type of complaints don't we refer?

The Standards Board for England is obliged to consider every complaint made to us in writing and decide whether to refer it to an ethical standards officer for formal investigation. This is the case for all complaints, including those that fall into the tit-for-tat, political point-scoring or vexatious categories. One purpose of the referral process is to filter out those that do not merit investigation on those grounds.

With plans for authorities to receive and filter complaints from 2008, we thought it would be useful to look at some of the other types of complaint that we have recently declined to refer for investigation.

Complaints about the council or council officers

We often receive complaints that are really about the council or the actions of officers. For example, there was a recent complaint against the leader of a London borough and the portfolio holder for housing. The complainant was concerned that security doors on the estate where he lives were not being repaired properly, yet residents were still being charged for the operation of the doors. He complained against the leader and the housing portfolio holder, as he had allegedly reported the problem to them but the issue remained unresolved.

In deciding not to investigate this complaint, we noted that the councillors had forwarded the complainant's concerns to appropriate officers. We also stated that the Standards Board cannot take a view on the efficiency with which a council

responds to service complaints or the quality of repairs undertaken by the council.

Another recent case that concerned the actions of officers rather than the conduct of individual councillors was a complaint that the chief executive of a district council had failed to countersign amendments to the members' register of interests. The complaint was against 39 members of the council, on the grounds that they had allegedly failed to ensure that the chief executive fulfilled the requirements of his office. We decided that the allegation did not disclose a potential breach of the Code of Conduct.

We frequently receive complaints that councillors have breached the Code of Conduct when in actual fact the substance of the complaint is about dissatisfaction with a decision taken by the authority as a whole. This can be seen in a recent complaint about play parks.

The complainant related his various concerns over a parish council's actions in respect of the play parks and stated that his complaint was against the chair of the parish council because, as chair, "he is responsible for all decisions and actions taken by the council". We did not refer this matter for investigation, as we do not have jurisdiction to investigate the merits of decisions taken by an authority and cannot hold individual councillors responsible for collective decisions.

Complaints about correspondence

Another common complaint that we generally do not investigate concerns members failing to provide a substantive response to correspondence. A recent example of this type of complaint was an allegation that a member of a London borough had failed to give a meaningful response to the complainant's many emails and that he had also decided to deal with future correspondence from the complainant under the council's vexatious correspondence procedure.

In deciding not to investigate this complaint we noted that councillors are entitled to invoke their authority's vexatious correspondence procedure if they feel it is appropriate to do so and it is not for the Standards Board to comment on the appropriateness of this decision. We also noted that the Code of Conduct does not require members to respond to every item of correspondence sent to them.

Complaints about pre-Code incidents

We often get complaints about actions that occurred before the Code of Conduct was adopted or before the individual in question was elected.

One case of this nature concerned recent publicity in the local press over a district councillor's conviction, 20 years ago, for the theft of a small sum of money. The complainant alleged that by being a convicted thief the councillor in question had brought his authority into disrepute. We noted that the Standards Board does not have jurisdiction over matters that occurred before the adoption of the Code of Conduct.

Monitoring local Investigations

We have looked at the outcome of a number of local investigations to try to assess how the local investigation process is going. We have now received 202 reports from monitoring officers and the percentage of complaints being referred for local investigation continues to rise. 61% were referred for local investigation in the last three months.

We looked at 50 reports, selected at random. Most (30) related to members of town and parish councils. In 40 cases, the authority undertook the investigations internally, with the monitoring officer conducting 17 of them, the deputy monitoring officer handling 10, and various other council officers doing 13. In four linked cases, the investigation was dealt with by way of a reciprocal arrangement; external solicitors or barristers handled another four cases; and two cases were completed by independent consultants.

" It is important that careful thought is given to who carries out an investigation and the skills and resources needed to carry it out thoroughly. "

We felt that the vast majority of reports demonstrated a clear presentation of the complaint, investigation and interpretation of the Code of Conduct. Only seven were not considered

of an appropriate standard. These investigations had all been carried out by officers other than the monitoring officer. It is important that careful thought is given to who carries out an investigation and the skills and resources needed to carry it out thoroughly.

A new approach to monitoring local investigations

Now that the local investigation of complaints has been underway for 18 months we have reviewed our approach to dealing with the issues that give cause for concern. In future:

- Within six weeks of referral, we will confirm with the monitoring officer that the investigation is underway, resolve any issues and enquire about the anticipated completion date. We will maintain contact with monitoring officers to ensure investigations proceed expeditiously.
- We will not comment on draft reports so that we are not seen to be an integral part of what is a local process.
- If we see minor problems in a report, we will refrain from commenting before the standards committee has met. We may then raise the matter informally with the monitoring officer after the standards committee has reached its decision.
- We will raise more serious matters with the monitoring officer before the standards committee has met to consider the report.
- We will contact the chief executive if we think there is a serious problem with the outcome of the standards committee hearing — for example, if there is a flawed interpretation of the Code of Conduct.
- We will refer any complaints we receive about the process of an investigation or a standards committee hearing to the council's corporate complaints procedure. If this does not resolve the matter, and it involves maladministration, the Local Government Ombudsman is the appropriate forum for redress.

There has been a very positive start to the investigation of complaints locally and they are generally being dealt with efficiently and effectively. The monitoring arrangements we have introduced should ensure that any concerns are dealt with at the right time in the most appropriate way.

Local case summaries?

Case summaries are one of the most effective ways we have of telling the standards committees, monitoring officers, journalists and the public about completed cases. The case summary section of our website receives over 11,000 separate visits per month.

We only publish full summaries of cases we investigate ourselves and just the basic details of local investigation outcomes. A number of monitoring officers and standards committee chairs have asked us to consider publishing full case summaries for cases investigated at a local level, so they can be used as a learning tool.

In order for us to be able to do this, we would need to ask local monitoring officers to prepare summaries following a template we would provide, so that we could publish the summaries on their behalf making it clear that they are written by, and are the responsibility of, the local authority concerned.

This is an issue we will ask our Board to consider, but in the meantime we would like to know your views on the subject.

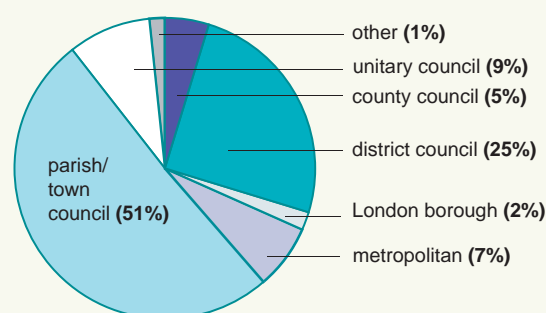
Please let us know by writing to stephen.callender@standardsboard.co.uk

Referral and investigation statistics

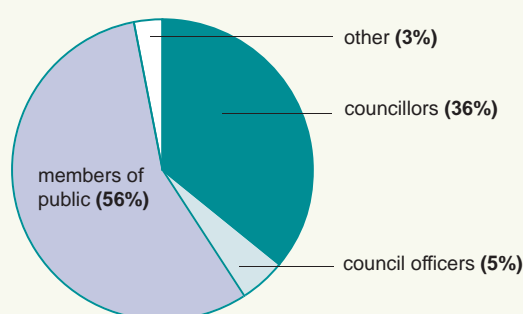
The Standards Board for England received 817 allegations between April and June 2006, compared to 951 during the same period in 2005-06.

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

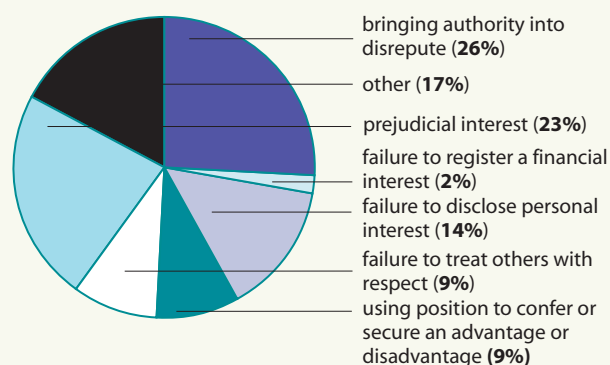
Authority of subject member in allegations referred for investigation



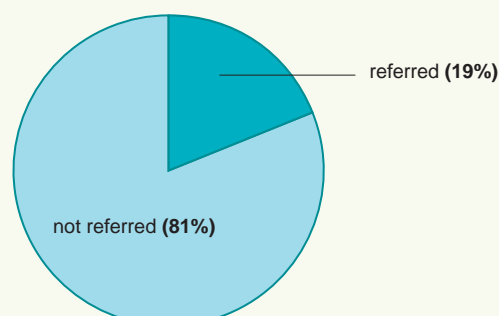
Source of allegations received



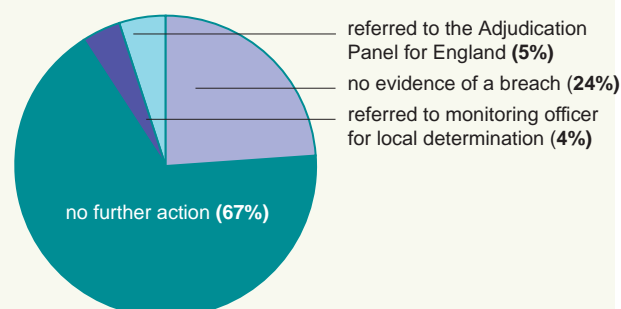
Nature of allegations referred for investigation



Allegations referred for investigation



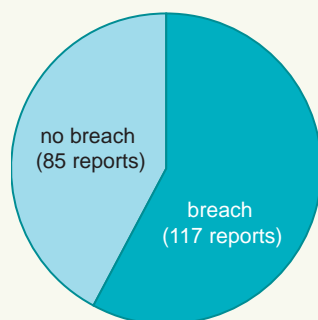
Final findings



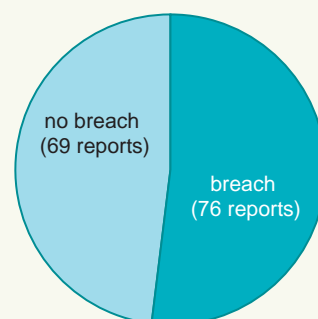
Local investigation statistics

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 cases, we have received 202 reports.

Monitoring officers' recommendations following local investigations



Of those 202 reports, 145 standards committees have met



These figures include nine instances where the standards committee disagreed with the monitoring officer. In six cases, the decision changed to 'no breach', and in three cases it changed to 'breach'.

Standards committee determinations



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

Between April and June 2006, ethical standards officers referred 100 cases for local investigation — equivalent to 61% of all cases referred for investigation. All of these cases are still outstanding.

Forthcoming research: A snapshot of standards committees

You may soon be receiving a questionnaire, from the Association of Council Secretaries and Solicitors (ACSeS) and the Standards Board, which seeks to provide a snapshot of the role of standards committees and monitoring officers, and their views and experiences on a range of issues, including support and training.

BMG Research is conducting the research and the results will be presented at our Annual Assembly in October and detailed in further editions of this Bulletin and on our website.

The results will also inform the provision of future support for standards committees and monitoring officers, and will be shared with ACSeS.

For further information please contact:

Gary Hickey on 020 7378 5087 or at gary.hickey@standardsboard.co.uk

or Anna Sansom on 0121 333 6006 or at anna.sansom@bmgresearch.co.uk

Research on standards committees' role in providing an independent overview

We discussed the University of Manchester's research on the components of an ethical environment in Issue 29 of the *Bulletin*. The research also identified the differing roles of standards committees in providing an independent overview.

Three types of standards committee were identified by the research:

- The *lapdog* standards committee is ineffective at playing the regulatory role because of insufficient resources or inappropriate political influence.
- The *watchdog* standards committee focuses on the conduct of members and ensuring it is prepared for conducting a hearing.
- The *guide dog* standards committee not only fulfils its statutory obligations but also provides a supportive as well as a regulatory role. Such activities include a more general overview of training for members, responsibility for revising protocols, and wider organisational processes, such as providing an overview of whistle-blowing and complaints procedures.

Whether or not a standards committee takes on a wider remit depends on factors such as the existence of related committees (for example, audit committees and governance committees), the skills and experience of independent members, and the limits placed on the work programme by questions of democratic legitimacy and the need for independent members to maintain impartiality.

Standards of conduct can sometimes slip off the agenda when an authority has not experienced any problems. The research concluded that standards committees can help keep the ethical framework on the agenda by working to a programme, ensuring a training programme, and periodically assessing ethical conduct in the authority.

The final report on 'components of an ethical environment' is available on our website at: www.standardsboard.co.uk/Aboutus/Research/

Dealing with the press

A number of authorities have asked for our advice on handling the press in relation to cases being investigated at a local level.

Encouraging ethical standards should be part of the mainstream work of any authority. That is one of the reasons we believe press calls on local investigations ought to be handled by authorities' press offices. Local press officers are communications professionals who know how to respond to enquiries without being tempted or trapped into straying into comment or detail that is unhelpful to the authority or ongoing investigations. That said, they will need you to take a lead in setting a policy. The most important principle in dealing with press enquiries is to have a clear policy outlining what you will or will not say and to stick to it.

Here is our press policy on case related issues, and the reasons for it:

The Standards Board's press policy

We do not confirm or deny if we have received a complaint before we have decided if it will be investigated.

This is because anyone can make a complaint about anything and only about a quarter of the allegations that we receive are referred for investigation. This will not be an issue for authorities at the moment as the Standards Board makes the initial decision.

Information we disclose about complaints

Once a decision has been made about whether to investigate an allegation, we will disclose the following information:

- the name of the member
- the name of their authority
- if the complaint came from a member of the public or a member of the same authority
- the areas of the Code of Conduct to which the allegation refers
- the reason if a complaint is not being investigated
- if the complaint is being investigated by the Standards Board or by the local authority

This information is only given in response to press enquiries. We do not proactively publicise cases at

this point. This is because we do not want to encourage stories about alleged bad behaviour. At the same time we do not want to be secretive and unhelpful.

We use the areas of the Code to identify the issue because this is less inflammatory than describing the behaviour and enables the press officer to use one of a number of pre-set forms of words.

This information is only made available three working days after we have written to the complainant and person complained about. This is to ensure that all the relevant people are informed of our decision by us, instead of reading it in the local press.

It is worth remembering that some people making complaints will have spoken to their local papers already, sometimes even before they write to us. They have also been known to issue press releases. The Standards Board has always been concerned about the use of the system to gain political capital in this way. We have said as part of our report to ministers on the review of the Code of Conduct that we wish to explore options with central and local government about how such behaviour could be minimised.

In the meanwhile, bear in mind the possibility that your press office may seem to know less than the local paper. As ever, the best approach is to stick rigidly to the press policy of what can and cannot be said.

During an investigation

- If a case is referred for local investigation, we will tell journalists the name of the authority investigating the case and will refer all enquiries to them.
- If a case is investigated by an ethical standards officer from the Standards Board, we will repeat the information we have already given out, but not add to it.

Following the investigation

- If a case is investigated by the Standards Board and the ethical standards officer finds either that there is no evidence of a breach of the Code, or that there is no need for further action, we will prepare a case summary which will appear on our website. All enquiries will then be referred to the case summary and we do not comment further.

- If a case is referred to a tribunal or local standards committee hearing we confirm this and then make no further comment as the case is still ongoing.

Following a hearing

- If a local authority investigated a case, we refer enquiries to them. On completion of the local investigation we will produce a basic listing of the outcome and this will appear on our website.
- If a case is investigated centrally and then heard by a local standards committee, we will prepare a case summary based on the report of the hearing and make it available on our website. All press enquiries will be referred to the summary.
- If a case is heard by the Adjudication Panel for England, we will publish a summary on our website. The final hearing report will be available on the Adjudication Panel's website.
- In exceptional cases, we will issue a press release on the findings of hearings or tribunals. This is done if we believe that it is in the public interest to use the case to publicise a wider point such as the unacceptability of bullying.

Case summaries

Case summaries are an important part of our press policy. They enable us to agree an account of the case which we can check is accurate and provide adequate information for us to refuse to comment further. We currently only publish full summaries of cases we investigate ourselves, but there is a possibility that we may publish summaries of cases investigated locally in the future.

Talk to your local press officer

We believe it is important that standards committees and monitoring officers fully brief their own press offices so that they are fully prepared to deal with calls about investigations and hearings. They should also be empowered to argue for the benefits of ethical standards and the standards regime as well as to explain the process and answer any questions not related to specific cases.

The ethical agenda is about building public confidence in local democracy. Your local media is one of the key ways of reaching the public with that message.

Disclosing information gathered by ethical standards officers

We have recently been advised that a literal approach to section 63 of the *Local Government Act 2000*, which concerns the disclosure of information gained by ethical standards officers during their investigations, is likely to result in procedural unfairness.

Section 63 is essentially a data protection provision. Its aim is to prevent the unjustified disclosure of information obtained by an ethical standards officer about individuals during the course of an investigation. Its general purpose is therefore to complement the privacy rights of subject members and others. Many other regulators operate under a similar statutory provision.

Section 63 cannot be used to stop a member who is the subject of an investigation from disclosing information supplied by an ethical standards officer about themselves to others. But generally it does prevent a member who is the subject of an investigation from disclosing information supplied by an ethical standards officer relating to others. However, because of the *Human Rights Act*, it cannot prevent the member from using that information in order to legitimately prepare their defence against allegations.

Section 63 relates only to information gathered during an ethical standards officer's investigation by an ethical standards officer. It does not relate to views or opinions they may express or to information not gathered during an investigation.

This less restrictive interpretation is also supported by feedback gained from a number of cases considered by the Adjudication Panel for England.

Self-assessment survey in the ethical governance toolkit

The Audit Commission, the Improvement and Development Agency (IDeA) and the Standards Board have got together to develop an ethical governance toolkit. The toolkit is designed to help councils to assess how well they are meeting the ethical agenda and identify areas for improvement.

The toolkit consists of four elements:

- self-assessment survey

- full audit
- light touch health check
- developmental workshops

So far, 28 councils and over 2,000 members and senior officers have used the self-assessment survey.

Results to date reveal that members tend to have a more positive view of their council than do officers. Most members and officers agree that the way the ethical agenda is being managed in their authority is helping to build confidence in local democracy.

Most councils have appropriate arrangements in place in relation to the *Local Government Act 2000*, but some councils are more proactive than others in promoting the ethical agenda and high standards of behaviour. In many councils, standards committees have some way to go before they can be said to be making a positive difference. Training for members also needs to be improved.

Most council leaders and chief executives offer positive role models but there is room to improve trust among members and between members and officers. The results also show that whistle-blowing arrangements are inadequate in too many councils and the role of the monitoring officer in this area of work could often be enhanced.

For more information on the toolkit contact Alison Kelly at a-kelly@audit-commission.gov.uk or on 07759 723 943 or visit the IDeA website

New association for independent members to be launched at Annual Assembly

The Association of Independent Members of Standards Committees in England (AIMSce), is to hold its inaugural meeting at our Fifth Annual Assembly of Standards Committees. It is being set up by independent members to champion their role on standards committees and to represent their needs and interests, and will be launched at the fringe event, 'Independent members gaining a voice', on Monday 16 October.

"The need for a collective representation of independent members is becoming more and more evident as the need for such members increases," explains Bruce Claxton, chair of the AIMSce steering group.

"We are very excited to be launching the organisation at the Annual Assembly. It offers us an excellent opportunity to network with a wide audience of standards committee members and others from the local government family."

Other fringe events at the conference will cover a range of topics, from the proposed local assessment of allegations to the relationship between ethical governance and organisational culture. Those joining AIMSce in hosting fringe events include:

- the Association of Council Secretaries and Solicitors (ACSeS)
- the Improvement and Development Agency (IDeA)
- the National Association of Local Councils (NALC)
- the Society of Local Authority Chief Executives and Senior Managers (SOLACE)

More information on all of the fringe events — and the conference as a whole, including up-to-date speaker details — is available on the conference website at:

www.annualassembly.co.uk

Places at the conference are filling up fast, and we are set for a busy, action-packed event. Spaces at personally selected sessions are allocated on a first come, first served basis, so if you are planning on attending, make sure you register now by visiting the conference website.

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Swindon Borough Council
Media Guidelines For Councillors
Adopted by the Authority as from 1st May 2003
(Reviewed 18 April 2005)

1 Background

The role of the Communications Unit for the Council is to promote and inform residents about Council policies and, on occasions, to invite consultation responses. Given this role, it is essential that all reporting on issues is factual, balanced and not politically biased.

2 Council Press Releases

- 2.1 All press releases and publications issued by the Council should state the Council's policy in a clear, concise and positive manner.
- 2.2 Quotations from elected Members will be included on the following basis:
 - * if the policy has been promoted by the ruling administration, then a quotation will be requested from the ruling administration lead Member or Leader.
 - * if the policy has been promoted by either or both of the two opposition parties, then quotations will be obtained from the relevant Member, e.g. the proposer of the motion or amendment.
 - * Members quoted will always be referred to by name and official title, e.g. Lead Member for XXX, Ward Member for ABC, etc.
- 2.3 Quotes from elected Members will be expected to positively promote the Council's policy.
- 2.4 The media team will normally seek quotes from the relevant elected Member. If the Member cannot be contacted, party political assistants will be invited to help.
- 2.5 Council publications will feature articles on all Council policies likely to be of current media interest, i.e. Publications will not 'over-promote' nor 'under-promote' any policy.
- 2.6 Elected Members and party political assistants will accept and respect the professionalism of the media team and will help them to get on with their day to day job.
- 2.7 All Council press briefings on major policy issues should be discussed with the Chief Executive and not the Press Office.

- 2.8 Ministers of State visiting Swindon for an event/support of a Council initiative should be featured in our releases with pictorial support - subject to the approval with the Central Office of Information.
- 2.9 Our local MPs should only be included in releases when they are supporting a specific Council policy or initiative which is relevant to them. In all instances, the relevant Member, Leader or Officer should take the lead role.

3 Party Political Group Press Releases

The Council's Press Office would welcome copies of releases sent out by the individual political groups for information.

4. Comments By Individual Members

- 4.1 As a Councillor or a Committee or Sub-Committee Member, Members will acquire much information that has not yet been made public and is still confidential. The Council's Code of Conduct makes clear that it is a breach of the Code to disclose such confidences. Accordingly, Members should never disclose or use confidential information for their personal advantage or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 4.2 Members will also come across confidential information from sources other than the Council. Members should not make public comment on rumours relating to Council business, or issues not formally in the public domain, such as would bring the Council into disrepute.
- 4.3 Subject to the above, Councillors are free to make whatever comment they may wish but they are advised to first clear with their group. Any quotation should make clear whether it is the Councillor's own view expressed or whether it is a view expressed on behalf of others.
- 4.4 If a Councillor is misquoted, or his/her views misrepresented, then the Member has a responsibility to seek in writing to correct the matter and, if appropriate, copy to others affected.

5 Complaints

- 5.1 If any political group believes that these guidelines have been broken, this should first be raised immediately with the Monitoring Officer, who will consult as appropriate with the Chief Executive and/or Director of Customer Communications.

Swindon Borough Council

Suggested Revised Media Guidelines For Councillors

1 Background

- 1.1 The role of the Communications Service for the Council is to promote and inform residents about Council policies, services and to invite consultation responses. It is essential that all reporting on issues is factual, balanced and not politically biased and complies with the Code of Conduct on local council publicity issued by the Secretary of State under Section 4 of the Local Government Act 1986.

2 Council News Releases

- 2.1 All news releases and publications issued by the Council should cover the Council's policies and services in a clear, concise and positive manner.
- 2.2 Quotations from elected Members can be included on the following basis:
- That they positively promote the Council's policies and services.
 - All quotations by Members should be cleared by the appropriate Cabinet Member and / or Leader of the Council.
 - Members quoted will always be referred to by name and official title, e.g. Cabinet Member for XXX.
- 2.3 Council publications will feature articles on all Council policies and services likely to be of current media interest, i.e. publications will not 'over-promote' nor 'under-promote' any policy.
- 2.4 Ministers of State visiting Swindon for an event/support of a Council initiative can be featured in Council releases with pictorial support, subject to the approval of the relevant Government press office and the Leader of the Council.
- 2.5 Reference to local MPs should only be included in releases when they are supporting a specific Council policy or initiative, which is relevant to them. In all instances, the relevant Cabinet Member or Leader of the Council should agree the release before it is issued.
- 2.6 Officers should not be quoted in Council news releases, undertake interviews or respond to media enquiries without clearance from the Communications Service. The Communications Service will make every effort to contact the relevant Cabinet Member before a decision is made.

3. Party Political Group Press Releases

- 3.1 The Council's Communications Service welcomes timely copies of releases sent out by the individual political groups for information.

4. Comments By Individual Members

- 4.1 As a Councillor or a Committee or Sub-Committee Member, Members will acquire much information that has not yet been made public and is still confidential. The Council's Code of Conduct makes clear that it is a breach of the Code to disclose such confidences. Accordingly, Members should never disclose or use confidential information for their personal advantage or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 4.2 Members will also come across confidential information from sources other than the Council. Members should not make public comment on rumours relating to Council business, or issues not formally in the public domain, such as would bring the Council into disrepute.
- 4.3 Subject to the above, Councillors are free to make whatever comment they may wish but they are advised to first clear it with their Group. Any quotation should make clear whether it is the Councillor's own view expressed or whether it is a view expressed on behalf of others.
- 4.4 If a Councillor is misquoted, or his/her views misrepresented, then the Member has a responsibility to seek in writing to correct the matter and, if appropriate, copy to others affected.

5 Complaints

- 5.1 If any political group believes that these guidelines have been broken, this should first be raised immediately with the Monitoring Officer, who will consult as appropriate with the Chief Executive and/or Director of Customer Communications.

October 2006



GOOD GOVERNANCE IN LOCAL GOVERNMENT: A FRAMEWORK

CONSULTATION DRAFT

(June 2006)

AT THE HEART OF
PUBLIC SERVICES 

CIPFA is one of the leading professional accountancy bodies in the UK and the only one which specialises in the public sector. It is responsible for the education and training of professional accountants and for their regulation through the setting and monitoring of professional standards. Uniquely among the professional accountancy bodies in the UK, CIPFA has responsibility for setting accounting standards for a significant part of the economy, namely local government. CIPFA's members work, often at the most senior levels, in public service bodies, in the national audit agencies and major accountancy firms. They are respected throughout for their high technical and ethical standards, and professional integrity. CIPFA also provides a range of high quality advisory, information, and training and consultancy services to public service organisations. Its weekly magazine, *Public Finance*, is read widely by elected representatives and officials in all tiers and corners of government. As such, CIPFA can justifiably lay claim to be the leading independent commentator on managing and accounting for public money.

SOLACE (the Society of local authority Chief Executives and Senior Managers) is the representative body for senior strategic managers working in local government. The Society promotes effective local government and provides professional development for its members

CONSULTATION QUESTIONS

We welcome comments on the content of this document. In particular we would welcome views on the following:

- 1 would this framework *Good Governance in Local Government* assist you in updating your own local code of governance?
- 2 would this Framework assist you in managing your arrangements for :
 - partnerships?
 - community engagement?
- 3 how might the Framework document be improved?
- 4 are there any other aspects of governance that are not in the Framework which you believe should be addressed?
- 5 are there any other issues that you wish to raise?

GUIDANCE NOTES

Corporate Governance in Local Government – A Keystone for Community Governance: A Framework was published with accompanying guidance notes in 2001. It is our intention later this year to develop separate guidance notes for English, Scottish, Welsh and Northern Irish local authorities to accompany this revised Framework. The guidance notes will illustrate:

- how the Framework fits in with other local government initiatives and guidance
- examples of good practice
- examples of the types of systems, processes and documentary evidence that might be cited by an authority to demonstrate compliance with best practice (such as the constitution, standing orders and job descriptions)
- the principles underlying who should be nominated by the authority to take responsibility for the review on its behalf and the scope given
- signposts to other useful tools and sources of guidance available to local authorities for self assessment purposes
- questions for internal use to help authorities in their approach.

We would be very pleased to be made aware of specific examples of good practice that might be included in the guidance notes.

Comments on this consultation draft should be sent by Monday, 11 September to:

Kerry Ace
Finance and Policy Manager
CIPFA
3 Robert Street
LONDON
WC2N 6RL

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email: kerry.ace@cipfa.org

THE WORKING GROUP

CIPFA, SOLACE, the LGA and the Audit Commission drew together the following members of the Good Governance in Local Government Working Group and are grateful to them and to their employing organisations for their time and assistance in preparing this document.

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ENDORSEMENTS

[Endorsements by Audit Commission, LGA, the Standards Board for England and others to be added.]

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PREFACE

- 1 INTRODUCTION
- 2 FRAMEWORK FOR THE DEVELOPMENT OF A LOCAL CODE
- 3 THE PRINCIPLES OF GOOD GOVERNANCE: APPLICATION
- 4 ANNUAL REVIEW AND REPORTING

FOREWORD

Governance arrangements in the public services are keenly observed and sometimes criticised. Significant governance failings attract immense attention – as they should – and one significant failing can taint a whole sector. Local authorities are big business employing over 2 million people and accounting for 25% of public spending. They are vitally important to all tax payers and citizens. Local authorities have a key role in leading their communities as well as ensuring the delivery of high quality services to them. Good governance enables an authority to pursue its vision effectively as well as underpinning that vision with mechanisms for control and management of risk.

Effective local government relies on public confidence in elected councillors and appointed officers. Good governance strengthens credibility and confidence in our public services. The function of governance is to ensure that authorities, other local government organisations or connected partnerships fulfil their purpose and achieve their intended outcomes for citizens and service users and operate in an effective, efficient, economic and ethical manner. This concept should guide all governance activity. Good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes for citizens and service users. All authorities should aim to meet the standards of the best and governance arrangements should not only be sound but be seen to be sound.

This Framework updates *Corporate Governance in Local Government: A keystone for Community Governance* published in 2001. Since its publication local government has been subject to continued reform to improve local accountability and engagement and a revised Framework is therefore timely. The Framework is intended to be followed as best practice for developing and maintaining a locally adopted code of governance and making adopted practice open and explicit.

PREFACE

Governance comprises systems and processes for the direction and control of local authorities through which they account to, engage with and lead their communities.

Each local authority operates through a governance framework. It is an interrelated system that brings together an underlying set of legislative requirements, governance principles and management processes. Traditionally, local government has conformed in whole or in part and in many different ways with the principles of good governance and has had a sound base on which to build. There has been a strong regulatory framework in existence and robust arrangements for monitoring and review.

In 2001 CIPFA in conjunction with SOLACE and with support from key organisations in local government responded to the need to draw together the principles identified by Cadbury, Nolan and, in England, the former Department of the Environment, Transport and the Regions (DETR) into a single framework of good governance for use in local government and published *Corporate Governance in Local Government: A Keystone for Community Governance*. The Framework recommended that local authorities review their existing governance arrangements against a number of key principles and report annually on their effectiveness in practice. Through the development of this Framework authorities were encouraged to meet the standards of the best.

Since the Framework was published, local government has been subject to continued reform intended to improve local accountability and engagement (See Appendix A for further information on the local authority context). In England and Wales new political structures and the new ethical framework mean that local authorities and their performance are under greater scrutiny than ever before. Of course local government is also accountable in a number of other ways. All local authority members are democratically accountable – uniquely - to their local area and this makes them a key influence in building sustainable communities. Authorities are subject to external review through the external audit of their financial statements and through the Comprehensive Performance Assessments (CPA) in England. They are required to publish their financial statements and are encouraged to prepare an annual report. Many are subject to national standards and targets such as educational attainment. Their budgets are effectively subject to significant influence and overview by Government with powers to intervene. Both members and officers are subject to codes of conduct. Additionally, where maladministration may have occurred, an aggrieved person may appeal either through their local councillor or directly to the ombudsman.

As the role of local authorities continues to evolve, they will need to make some difficult choices over the next few years. Delivering extensive change and meeting rising expectations about the quality and responsiveness of services is demanding. Doing so when council finances are subject to close scrutiny will be particularly challenging for those responsible for managing the process. Time is also needed for thinking through long term issues including future priorities and objectives and whether councils' structures allow them to predict and respond in a timely fashion. Councils must ensure that they exhibit 'fitness for purpose' in organisational and structural terms so they can deliver on those choices.

The main principle underpinning the development of the original Framework was that local government was shaping its own approach to good governance. This principle has remained key to the revised Framework. The revised Framework builds on recent governance work in both the public and private sectors and in particular *The Good Governance Standard for Public Services* drawn up by the Independent Commission on Good Governance in Public Services established by CIPFA and the Office for Public Management (OPM) in partnership with the Joseph Rowntree Foundation. The six core principles from the Good Governance Standard have been adapted for the local

government context. The Framework also comprises best practice objectives that should provide the basis for each local authority to develop and maintain a local code of governance reflecting its type, size, functions and nature.

Good governance is important to all involved in local government. However, it is a key responsibility of the leader of the council and of the chief executive. This document will be of particular importance to them, to other members of the leadership team and to those responsible for monitoring and assurance.

1 INTRODUCTION

Governance comprises the systems and processes for the direction and control of local authorities through which they account to, engage with and lead their communities.

Purpose of Framework

- 1.1 Each local authority operates through a governance framework which brings together an underlying set of legislative requirements, governance principles and management processes. This Framework document is intended to be followed as best practice for developing and maintaining a local code of governance and making adopted practice open and explicit.
- 1.2 The Framework defines the principles that should underpin the governance of each local authority but it is not a prescription for a single model of governance. Whatever form of executive arrangements are in place, authorities are urged to test their structures against the principles contained in the Framework by:
 - reviewing their existing governance arrangements against this Framework
 - developing and maintaining an up-to-date local code of governance, including arrangements for ensuring its ongoing application and effectiveness
 - preparing a governance statement in order to report publicly on the extent to which they comply with their own code on an annual basis including how they have monitored the effectiveness of their governance arrangements in the year, and on any planned changes in the coming period.
- 1.3 In order to review their current arrangements authorities will need to:
 - consider the extent to which the authority complies with the principles and requirements of good governance set out in the Framework
 - identify systems, processes and documentation that provide evidence of compliance
 - identify the individuals and committees responsible for monitoring and reviewing the systems, processes and documentation identified
 - identify the issues that have not been addressed adequately in the authority and consider how they should be addressed
 - identify the individuals who would be responsible for undertaking the actions required and plan accordingly.
- 1.4 This document reflects the dimensions of a local authority's business – these underpin the way the governance principles are developed throughout the Framework. The dimensions describe the role of a local authority and are considered to be as follows:
 - 1 to provide leadership for and with the community and engage in effective partnerships
 - 2 to ensure the delivery of high quality local services whether directly or in partnership or by commissioning
 - 3 to perform a stewardship role which protects the interests of local people and makes the best use of resources
 - 4 to develop local democracy and citizenship.

DIMENSION 1: To provide leadership for and with the community and to engage in effective partnerships

Local authorities are able to provide leadership to their communities through their ability to act in an advocacy role and to promote the economic, social and environmental well-being of their area. Partnerships are a key component of the pattern of public service provision and local authorities have a key role to play in the Government's agenda for partnership working.

DIMENSION 2: To ensure the delivery of high quality local services whether directly or in partnership or by commissioning

Local authorities are responsible for ensuring the delivery of high quality services to their communities. Some local authorities provide most of their services on an in-house basis. Others provide some services in-house and employ private sector contractors to provide others. They also enter into contracts with voluntary bodies and enter into shared or agency arrangements with other local authorities.

DIMENSION 3: To perform a stewardship role which protects the interests of local people and makes best use of resources

Each local authority is accountable to tax payers for its stewardship and use of resources. It should provide excellent value for money and make the best use of resources available to it as well as protecting the interests of local people.

DIMENSION 4: To develop local democracy and citizenship

Local authority members are democratically accountable to their local area. Authorities have a key role to play in working with others to build a strong sense of community and in encouraging individual citizens to play a full and constructive part in the lives and development of their communities.

2 FRAMEWORK FOR THE DEVELOPMENT OF A LOCAL CODE

Defining the principles of good governance

- 2.1 Authorities must be able to demonstrate that they are complying with the principles of good governance. The following six core principles are taken from the Good Governance Standard developed by the Independent Commission on Good Governance in Public Services with support from OPM and CIPFA and have been adapted for local government purposes.

Good governance means:

- (i) Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area
- (ii) Members and officers working together to achieve a common purpose with clearly defined functions and roles
- (iii) Promoting the values of the authority and demonstrating the values of good governance through behaviour
- (iv) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
- (v) Developing the capacity and capability of members to be effective and ensuring that officers – including the statutory officers - also have the capability and capacity to deliver effectively
- (vi) Engaging with local people and other stakeholders to ensure robust local public accountability.

Supporting principles

- 2.2 The six core principles have supporting principles which reflect the dimensions of a local authority's business:

- **Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area**
 - exercising leadership by clearly communicating the authority's purpose and vision and its intended outcomes for citizens and service users
 - ensuring that users receive a high quality of service whether directly, or in partnership or by commissioning
 - ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money.
- **Members and officers working together to achieve a common purpose with clearly defined functions and roles**
 - ensuring effective leadership throughout the authority by being clear about executive and non executive functions and of the roles and responsibilities of the scrutiny function
 - ensuring that a constructive working relationship exists between elected members and officers and that the responsibilities of members and officers are carried out to a high standard
 - ensuring relationships between the authority and the public are clear so that each know what to expect of the other.

- **Promoting the values of the authority and demonstrating the values of good governance through behaviour**
 - ensuring council members and officers exercise leadership by behaving in ways that uphold high standards of conduct and exemplify effective governance
 - ensuring that organisational values are put into practice and are effective.

- **Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**
 - exercising leadership by being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny
 - having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
 - making sure that an effective risk management system is in place
 - recognising the limits of lawful action and observing both the specific requirements of legislation and the general responsibilities placed on local authorities by public law, but also accepting responsibility to use their legal powers to the full benefit of the citizens and communities in their area.

- **Developing the capacity and capability of members to be effective and ensuring that officers – including the statutory officers – also have the capability and capacity to deliver effectively**
 - making sure that members and officers have the skills, knowledge and experience they need to perform well in their roles
 - developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group
 - encouraging new talent for membership of the authority so that best use can be made of resources in balancing continuity and renewal.

- **Engaging with local people and other stakeholders to ensure robust local public accountability**
 - exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders including partnerships, and develops constructive accountability relationships
 - taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery
 - making best use of resources by taking an active and planned approach to meet responsibility to staff.

3 THE PRINCIPLES OF GOOD GOVERNANCE – APPLICATION

- 3.1 To achieve good governance, each local authority should be able to demonstrate that they are complying with the core and supporting principles contained in this Framework and should therefore develop and maintain a local code of governance comprising the requirements for best practice outlined below.

Core principle

Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area.

Supporting principles

- exercising leadership by clearly communicating the authority's purpose and vision and its intended outcome for citizens and service users
- ensuring that users receive a high quality of service whether directly, or in partnership or by commissioning
- ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

The local code should reflect the requirement for local authorities to:

- make a clear statement of the authority's purpose and vision and use it as basis for corporate and service planning and shaping the community strategy and local area agreement (or performance agreement)
- review on a regular basis the authority's vision for the local area and its impact on the authority's governance arrangements
- publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance
- decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available. The authority must ensure that this information is reflected in its corporate plan, medium term strategy and resourcing plan in order to ensure improvement
- decide how value for money is to be measured and make sure that it has the information needed to review value for money and performance effectively is available. Ensure that the results are reflected in authorities' performance plans and in reviewing the work of the authority
- put in place effective arrangements to deal with failure in service delivery
- when working in partnership ensure that there is a common vision underpinning the work of the partnership that is understood and agreed by all partners. The vision should be :
 - supported by clear and measurable objectives with targets and indicators
 - the driver for deciding what services will be provided by or commissioned by the partnership, the quality and the cost.

Core principle

Members and officers working together to achieve a common purpose with clearly defined functions and roles

Supporting principles

- ensuring effective leadership throughout the authority by being clear about executive and non executive functions and of the roles and responsibilities of the scrutiny function
- ensuring that a constructive working relationship exists between elected members and officers and that the responsibilities of authority members and officers are carried out to a high standard.
- ensuring relationships between the authority and the public are clear so that each know what to expect of the other.

The local code should reflect the requirements for local authorities to:

- set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice
- set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers
- develop protocols to ensure effective communication between councillors and officers in their respective roles
- develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained
- set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel
- ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated
- when working in partnership :
 - ensure that there is clarity about the legal status of the partnership
 - ensure that the roles and responsibilities of the partners are agreed so that there is effective leadership and accountability
 - ensure that representatives or organisations make clear to all other partners the extent of their authority to bind their organisation to partner decisions
- ensure that effective mechanisms exist to monitor service delivery
- determine a scheme of delegated and reserved powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority taking account of relevant legislation and ensure that it is monitored and updated when required
- ensure that effective management arrangements are in place at the top of the organisation
- make a chief executive or equivalent responsible and accountable to the authority for all aspects of operational management
- make a senior officer (usually the director of finance) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control
- make a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.

Core principle

Promoting the values of the authority and demonstrating the values of good governance through behaviour

Supporting Principles

- ensuring council members and officers exercise leadership by behaving in ways that uphold high standards of conduct and exemplify effective governance
- ensuring that organisational values are put into practice and are effective.

The local code should reflect the requirements for local authorities to:

- develop and maintain shared values including leadership values both for the organisation and its staff reflecting public expectations about the conduct and behaviour of individuals and groups within and associated with the authority
- use the organisations shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority
- develop and adopt formal codes of conduct defining the standards of personal behaviour
- develop and maintain an effective standards committee which acts as the main means to raise awareness and take the lead in ensuring high standards of conduct are firmly embedded within the local culture (see Appendix B)
- put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice
- put in place arrangements to ensure that their procedures and operations are designed in conformity with appropriate ethical standards, and to monitor their continuing compliance in practice
- in pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be 'alive' and demonstrated by partners' behaviour both individually and collectively.

Core principle

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Supporting principles

- exercising leadership by being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny
- having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- making sure that an effective risk management system is in place
- recognising the limits of lawful action and observing both the specific requirements of legislation and the general responsibilities placed on local authorities by public law, but also accepting responsibility to use their legal powers to the full benefit of the citizens and communities in their area.

The local code should reflect the requirements for local authorities to:

- develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall
- develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based
- put in place arrangements so that conflicts of interest on behalf of members and employees can be avoided and put in place appropriate processes to ensure that they continue to operate in practice
- put in place arrangements for whistle blowing to which staff and all those contracting with the authority have access
- put in place effective transparent and accessible arrangements for dealing with complaints
- develop and maintain an effective audit committee which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of these functions (see Appendix B)
- develop and maintain an effective standards committee which lies at the heart of decision making and awareness raising on standards issues (see Appendix B)
- ensure that those making decisions are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications
- develop and maintain effective arrangements for determining the remuneration of senior staff
- ensure that professional advice on legal and financial matters is available and recorded well in advance of decision making and used appropriately when decisions have significant legal or financial implications
- ensure that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their job (See Appendix C)
- actively recognise the limits of lawful activity placed on them by the ultra vires doctrine but also strive to utilise their powers to the full benefit of their communities
- observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of administrative law – rationality, legality and natural justice into their procedures and decision making
- when working in partnership, put in place protocols for working together which include a shared understanding of respective roles and responsibilities of each organisation
- when working in partnership, ensure that there are robust procedures for scrutinising decisions and behaviour and that these decisions and behaviour are compliant with any local authority rules/codes or comply with any rules/codes developed for the purpose of the partnership
- when working in partnership, ensure that partnership papers are easily accessible and meetings are held in public unless there are good reasons for confidentiality. The partners must ensure that:
 - the partnership receives good quality advice and support and information about the views of citizens and stakeholders, so that robust and well reasoned decisions are made
 - risk is managed at a corporate and operational level.

Core principle

Developing the capacity and capability of members to be effective and ensuring that officers - including the statutory officers - also have the capability and capacity to deliver effectively.

Supporting principles

- making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles
- developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group
- encouraging new talent for membership of the authority so that best use can be made of resources in balancing continuity and renewal.

The local code should reflect the requirements for local authorities to:

- assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively
- ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority
- provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis
- develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed
- put in place arrangements for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs
- put in place effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority
- consider career structures for members and officers to encourage participation and development
- when working in partnership, ensure that partners individually and the partnership collectively share responsibility for appointing people to the partnership who have the required skills and are at an appropriate level. The partnership should :
 - identify the capacity and capability requirements of the partnership
 - conduct an audit of the availability of the capacity and capability of the partnership and partners
 - develop an effective plan for addressing any gaps.

Core principle

Engaging with local people and other stakeholders to ensure robust local public accountability

Supporting principle

- exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders including partnerships, and develops constructive accountability relationships

- taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery
- making best use of resources by taking an active and planned approach to meet responsibility to staff.

The local code should reflect the requirements to:

- make clear to themselves, all staff and the community, to whom they are accountable and for what
- consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required
- establish clear channels of communication with all sections of the community and other stakeholders and put in place monitoring arrangements to ensure that they operate effectively
- put in place arrangements to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands
- establish a clear policy on the types of issues they will meaningfully consult or engage with the public and service users including a feedback mechanism for those consultees
- on an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period
- put in place effective systems to protect the rights of staff. Ensure that policies for whistle blowing which are accessible to staff and those contracting with the authority, and arrangements for the support of whistle blowers, are in place
- develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making
- produce an annual report on scrutiny function activity
- ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so
- when working in partnership, ensure that engagement and consultation undertaken by the partnership is planned with regard to methodology, target audience and required outcomes. Existing mechanisms and groups should be used where appropriate. In the work cycle of the partnership it must be clear and demonstrable to the public what has happened to any feedback and what has changed as a result.

(NB The proposed requirements included in this chapter will also be considered by the CIPFA/LASAAC Joint Committee which is responsible for the development of the Code of Practice on Local Authority Accounting in the United Kingdom for 2007/08).

The Governance Statement

Proper Practice

This section of the Framework defines proper practice for the form and content of a governance statement that subsumes the requirement to prepare and publish a statement on internal control. Regulation 4(2) of the Accounts and Audit Regulations 2003 requires a local authority to “conduct a review at least once in a year of the effectiveness of its system of internal control and include a statement on internal control, prepared in accordance with proper practices....”. To meet the requirements of the Regulations it is mandatory to prepare a governance statement in accordance with this section.

A pro forma governance statement is provided at Appendix D. This provides the key headings that should be covered in the statement, along with indications of what might be covered. It does not, however, provide standard wording for the sections dealing with the governance arrangements and the review of their effectiveness. It is not appropriate to use standard wording to describe or demonstrate the effectiveness of the particular governance arrangements at a given authority, which will be dependent on the risk profile and range of activities in operation. The statement should include the action plan to address any significant governance and internal control issues

The governance statement should be approved at a meeting of the authority or delegated committee. Whilst there is no statutory timetable for this approval, the statement must be published with the financial statements and so the publication timetable for the financial statements will drive the governance statement approval timetable. In considering whether to approve the governance statement, the relevant body should seek to satisfy itself that it has obtained relevant and reliable evidence to support the disclosures made. Following approval, the governance statement should be signed by the most senior officer and the most senior member of the council. Given that it might be prepared before the audit is completed, it is also important that the governance statement is kept up to date at the time of publication.

Guidance

- 4.1 Local authorities are responsible for ensuring that their business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The development of a code of corporate governance, consistent with the principles and requirements of the CIPFA/SOLACE framework, will help to ensure proper arrangements are in place to meet that responsibility. Authorities should undertake regular, at least annual, reviews of their governance arrangements to ensure continuing compliance with best practice as set out in the Framework. It is important that such reviews are reported on both within the authority, to the audit committee or other appropriate member body, and externally with the published accounts, to provide assurance that:

- corporate governance arrangements are adequate and operating effectively in practice; or
 - where reviews of the corporate governance arrangements have revealed gaps, action is planned that will ensure effective governance in future.
- 4.2 The process of preparing the governance statement should itself add value to the corporate governance and internal control framework of an organisation. It should be submitted to the council for consideration.
- 4.3 A governance statement should include the following information:
- an acknowledgement of responsibility for ensuring there is a sound system of governance, including in particular the system of internal control
 - an indication of the level of assurance that the systems and processes that comprise the authority's governance arrangements can provide
 - a brief description of the key elements of the governance arrangements
 - a brief description of the process that has been applied in maintaining and reviewing the effectiveness of the governance arrangements, including some comment on the role of: the authority; the executive; the audit committee/overview and scrutiny function/risk management committee/standards committee; internal audit and other explicit review/assurance mechanisms
 - an outline of the actions taken, or proposed, to deal with significant governance and internal control issues.
- 4.4 It is important to recognise that the governance statement covers all significant corporate systems, processes and controls, spanning the whole range of an authority's activities, including in particular those designed to ensure:
- the authority's policies are put into place
 - the authority's values are met
 - laws and regulations are complied with
 - required processes are adhered to
 - financial statements and other published information are accurate and reliable
 - human, financial and other resources are managed efficiently and effectively
 - high quality services are delivered efficiently and effectively.
- 4.5 It therefore covers performance issues – good governance promotes good service but poor service performance reflects a failure of governance. Consequently, approval and ownership of the governance statement should be at a corporate level and should be confirmed by the most senior officer (chief executive or equivalent) and the most senior member (leader or equivalent) signing the statement on behalf of the authority. Equally, the review and approval of the governance statement by a member group separately from the accounts will help to ensure its robustness and reinforce its corporate standing.
- 4.6 In reviewing and approving the governance statement, members will require assurances on the effectiveness of the governance framework, and in particular the system of internal control, and how these address the key risks faced by the authority. Those assurances will be available from a wide range of sources, including internal and external audit, a range of external inspectorates and managers from across the organisation. Management will provide the primary source of assurance. However, an effective internal audit function will also be a significant source of assurance.

- 4.7 Ultimately, an authority should seek to establish an assurance framework, embedded into its business processes, that maps strategic objectives to risks, controls and assurances. Such a framework will provide members with assurances to support the governance statement on a structured basis, and will help members to identify whether all strategic objectives and significant business risks are being addressed.

The Local Authority Context

- 1.1 For England and Wales, the Local Government Act 2000 introduced new governing structures for all principal local authorities, clarifying responsibility for making decisions and establishing a scrutiny role. Local authorities above a de minimus level are required to have 'executive arrangements' comprising an executive which can be:
- or a directly elected mayor with cabinet
 - or a cabinet with a leader
 - or a directly elected mayor and council manager.
- 1.2 Executive arrangements must include one or more overview and scrutiny committees through which non executive councillors can question and challenge the performance of the executive and promote public debate. The Act gave local authorities the power to promote the economic, social and environmental well-being of their areas and to work with other bodies to develop community strategies.
- 1.3 Elected members are collectively responsible for the governance of the council. The full council meeting is responsible for:
- agreeing the council's constitution containing the key governance documents including the executive arrangements
 - agreeing the policy framework including the community strategy and other key strategies
 - agreeing the budget
 - appointing the chief executive and leader of the council
 - appointing committees.
- 1.4 The executive is responsible for:
- proposing the policy framework and key strategies
 - proposing the budget
 - implementing the policy framework and key strategies.
- 1.5 In Scotland local authorities have traditionally adopted a committee structure to support their decision making process, operated under a scheme of delegation as laid down in the local authority's standing orders. Typically, the local authority in the form of a full council will devolve authority to service and other committees to take decisions on its behalf, with the meeting of the full council formally approving the decisions taken. More recently local authorities in Scotland have moved away from the traditional committee based structure and it is estimated that half of local authorities have adopted a cabinet style of structure.
- 1.6 In Northern Ireland, under the provisions of the Local Government Act (NI) 1972 councils were initially designated as 'district councils' but the Act provided for granting of city or borough status in certain circumstances. Each council consists of councillors elected by electors in each district and councils of city or borough status may designate up to one quarter of the number of their councillors with the ceremonial title of 'alderman'. Councils are required to elect a chairman annually from amongst the councillors. In city and borough councils the chairman is known as the mayor.

STANDARDS AND AUDIT COMMITTEES

(NB It is important that the functions of audit committees are discharged effectively and are recognised for their significance in relation to overall governance. Some local authorities may choose to adopt different arrangements other than those found in the CIPFA guidance *Audit Committees: Practical Guidance for Local Authorities*. They should be at liberty to do so. Whether authorities adopt this model guidance or an alternative arrangement, they should be ready to justify their decisions to electors and other stakeholders through the usual accountability channels).

The role of standards and audit committees

It is important that the respective committees are clear about their roles and responsibilities and that there is a clear distinction in their terms of reference. This will avoid confusion, disputes and possible duplication. Furthermore, committees are likely to be more effective if they are required to focus on their own defined areas of business.

A useful distinction can be made between the functions of 'overseeing financial processes, audit and risk management' and 'ensuring and promoting good ethical conduct.' The focus of audit committees should be on the former while the focus of standards committees should be on the latter.

An audit committee would then oversee the following functions, outlined in the CIPFA document *Audit Committees: Practical Guidance for local Authorities* (2005):

- Internal control
- Risk management
- Financial management and reporting
- Anti-fraud and anti-corruption arrangements
- Issues raised by internal and external auditors.

The role of standards committees is determined by statute and resolutions.¹ The introduction of regulations under *The Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003* has led to standards committees having the responsibility for:

- Holding a local hearing following an investigation of misconduct and imposing sanctions.

The paper *Standards of Conduct in English Local Government: The Future* (Office of the Deputy Prime Minister 2005) emphasises greater local decision making on ethics issues. The paper asserts that consistent with this would be the following function:

- Initial assessment of all allegations of misconduct.

Reference is made to the role of standards committees in the Comprehensive

¹ 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
- Train members on the code, or arrange such training
- Promote and maintain high standards of conduct for members
- Help members to follow the code of conduct.

Performance Assessment 2005: Key Lines of Enquiry for Performance Assessment. Of particular note is the role of promoting and maintaining high ethical standards and the need to have a high profile within the council. Similarly, the Government as part of its drive for local ownership of standards and ethical issues envisages standards committees as being at the heart of decision-making within the conduct regime and the main means of raising awareness of standards issues (Office of the Deputy Prime Minister 2005).

Other functions that could come under the remit of standards committees are overseeing the constitution, overseeing whistle blowing, assessing reports from the Ombudsman and developing protocols.

The above does not include an exhaustive list of possible functions. Although mindful of the need not to be over prescriptive there is, nevertheless, a need for clarity of roles, and for some protocol where committees coexist. It could also be possible that the committees would contribute to each others' 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.

Membership and skills of audit committees and standards committees

CIPFA (2005) recommend that members of the audit committee should be independent of both the executive and scrutiny functions. The Government have advocated that all chairs of standards committees should be independent (Office of the Deputy Prime Minister 2005). *The Relevant Authorities (Standards Committee) Regulations 2001* require that independent members comprise at least 25% of the membership of the committee, and the Standards Board for England recommends that there should be at least two independent representatives. Standards committees must, where they cover any parish or town councils, include at least one parish or town council representative (*Local Government Act 2000 and the Relevant Authorities (standards Committee) Regulations 2001*).

Given the different roles of the two committees it follows that arrangements should be in place to ensure that members of the respective committees have the necessary skills, experience and knowledge. The Government (Office of the Deputy Prime Minister 2005) recommends that standards committees should include independent members who reflect a balance of experience. Although some aspects of the skills and experiences required for either committee are likely to be similar, there are some which are likely to be more specific. For example, overseeing risk management and financial arrangements (undertaken by an audit committee) requires different skills to that of holding hearings and promoting ethics (undertaken by a standards committee).

RISK MANAGEMENT AND THE INTERNAL CONTROL ENVIRONMENT

This Framework defines governance as comprising “the systems and processes for the direction and control of local authorities through which they account to, engage with and lead their communities”.

Regulation 4 of the Accounts and Audit Regulations 2003² requires that:

- (1) *The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes arrangements for the management of risk.*
- (2) *The relevant body shall conduct a review at least once in a year of the effectiveness of its system of internal control and shall include a statement on internal control, prepared in accordance with proper practices”.*

There is, therefore, a clear and logical connection between reporting on the effectiveness of an authority's governance arrangements, and its systems of risk management and internal control.

Risk Management

Risk is the threat that an event or action will adversely affect on organisation's ability to achieve its objectives and to successfully execute its strategies. Risk management is the process by which risks are identified, evaluated and controlled and is a key element of the framework of governance³. Public services need to consider risk management and how they handle risk in all its forms. The CIPFA/ALARM publication *Risk Management in Public Services*⁴ helps public service managers at all levels within an organisation to understand their role in incorporating risk management into their work.

Risk management can be defined as “a logical and systematic method of establishing the context, identifying, analysing, evaluating, treating, monitoring and communicating risks associated with any activity, function or process in a way that will enable organisations to minimise losses and maximise opportunities”⁵. It is not about being ‘risk averse’ but is about being ‘risk aware’.

Good corporate governance requires that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job. At the highest level, risk management must be closely aligned to the organisation's strategic objectives, ensuring that there is a clear focus, at the top of the organisation, on those significant risks that would prevent the organisation achieving its key business objectives. An authority should, therefore, be able to demonstrate that risk management has been embedded in its corporate business processes, including:

- strategic planning
- financial planning
- policy making and review

² The Accounts and Audit Regulations 2003, SI 2003/533

³ Worth the Risk: Improving Risk Management in Local Government, The Audit Commission 2001

⁴ Risk Management in Public Services, CIPFA/ALARM, 2001

⁵ Australia/New Zealand Standard 4360: 1999 Risk Management, Standards Australia 1999

- project management
- performance management.

To enable effective strategic risk management, the number of significant business risks should be limited to those that are considered business critical – say the 10 to 20 top risks. Above this, it becomes more difficult to effectively manage and monitor risks. Authorities will also need to identify what is the most effective structure for them to manage risk. This could be achieved through an audit committee convened in accordance with best practice identified in CIPFA's *Audit Committees – Practical Guidance for Local Authorities 2005*⁶. Alternatively, authorities may wish to establish a risk management committee.

At service or departmental level, service managers will need to be able to identify and manage those operational risks that could prevent or disrupt the delivery of services to users.

An organisation's risks will change over time as its objectives and service delivery arrangements change, either in response to local issues or to national policies. Risk management arrangements must be flexible enough to respond to these changes. What is seen as a low level operational risk today may be tomorrow's significant business risk.

To ensure an effective level of risk management, an authority will need to be able to demonstrate, as a minimum, the following attributes:

- A risk management strategy/policy has been adopted and approved by members.
- The risk management strategy/policy requires the authority to:
 - identify corporate and operational risks
 - assess the risks for likelihood and impact
 - identify mitigating controls
 - allocate responsibility for the mitigating controls.
- The authority maintains and reviews a register of its corporate business risks linking them to strategic business objectives and assigning ownership for each risk. The risks arising from and within partnerships and other joint working arrangements should be identified as part of this process. The corporate risk register will be supported by a series of department/service risk registers that identify and assign the lower level operational risks.
- A member committee has specific responsibility included in its terms of reference to consider corporate risk management. There should also be a link between this function and the organisation's arrangements for reviewing its system of internal control.
- Reports to support strategic policy decisions, and project initiation documents, include a risk assessment and the identification of mitigating action.

As an authority develops more robust risk management arrangements that reflect best practice it would be able to demonstrate some or all of the following:

- A risk management process that is reviewed and updated at least annually.
- Risk management awareness training for those members with specific responsibility for risk management, and, ultimately, for all members.
- Relevant training and guidance for all appropriate staff to enable them to take responsibility for managing risk within their own working environment.

⁶ Audit Committees – Practical Guidance for Local Authorities, CIPFA 2005

- Regular risk management reporting to the responsible member committee, which takes appropriate action to ensure that corporate business risks are being actively managed, including reporting to full council as appropriate.
- A senior officer champions and takes overall responsibility for embedding risk management throughout the organisation.
- Consideration by the organisation of positive risks (opportunities) as well as negative risks (threats).

The Internal Control Environment

Regulation 4(1) of the Accounts and Audit Regulations 2003 requires a local authority to "be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes arrangements for the management of risk"⁷.

The system of internal control spans the whole range of local authority activities, including those designed to ensure:

- the authority's policies are put into place
- the authority's values are met
- laws and regulations are complied with
- required processes are adhered to
- financial statements and other published information are accurate and reliable
- human, financial and other resources are managed efficiently and effectively
- high quality services are delivered efficiently and effectively.

Therefore, the internal control environment forms a significant element of the governance framework and will have an impact on the effective operation of an authority, linking risk management with the day to day operations of the organisation. It will also have a key role in ensuring that public money is used effectively, preventing loss through error or fraud, and that the authority can report its financial and operational performance in a timely and accurate way.

Members and senior managers of an authority will need to assure themselves that there are appropriate arrangements in place to maintain a sound governance framework, including systems of internal control, taking account of changing risks and circumstances. It will be for individual authorities to identify what those arrangements are, in the context of their own structures and objectives. However, an effective internal control environment will demonstrate the following attributes:

- The core functions of an audit committee, as identified in the CIPFA's *Audit Committee - Practical Guidance for Local Authorities*, are undertaken by members.
- An internal audit function that operates in accordance with the CIPFA code for internal audit in local government⁸
- Procedure notes/manuals for key financial systems, which are reviewed and updated as appropriate.
- Standing orders, standing financial instructions and a scheme of delegation which are reviewed and updated as appropriate.
- A business continuity plan which is reviewed on a regular basis.
- Arrangements to ensure compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful. All reports are considered for legal issue before submission to members.

⁷ The Accounts and Audit Regulations 2003, SI 2003/533

⁸ Code of Practice for Internal Audit in Local Government in the UK, CIPFA 2003

- Arrangements to ensure a sound system of internal financial control including, for example, carrying out regular bank reconciliations and reconciliations of major feeder systems.
- Governance arrangements with respect to partnerships are reflected in the authority's overall internal control arrangements.

ANNUAL GOVERNANCE STATEMENT

Scope of responsibility

[The authority] is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. [The authority] also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, [the authority] is responsible for putting in place proper arrangements for the governance of its affairs and for ensuring that there is a sound system of internal control which facilitates the effective exercise of its functions and which includes arrangements for the management of risk.

[The authority] has approved and adopted a code of corporate governance, which is consistent with the principles of the CIPFA/SOLACE Framework *Good Governance in Local Government*. A copy of the code is on our website at [...] or can be obtained from [...]. This statement explains how [the authority] has complied with the code and also meets the requirements of regulation 4 of the Accounts and Audit Regulations 2003 in relation to the publication of a statement on internal control.

The purpose of the governance framework

The governance framework comprises the systems and processes for the direction and control of the authority and its activities through which it accounts to, engages with and leads the community.

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of [the authority's] policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The governance framework has been in place at [the authority] for the year ended 31 March 200x and up to the date of approval of the [annual report] and statement of accounts.

The governance environment

Describe the key elements of the systems and process that comprise the authority's governance arrangements including arrangements for:

- establishing and monitoring the achievement of the authority's objectives
- the conduct of behaviour
- the facilitation of policy and decision-making
- ensuring compliance with established policies, procedures, laws and regulations
- embedding risk management in the activity of the authority, including how leadership is given to the risk management process, and how staff are trained or equipped to manage risk in a way appropriate to their authority and duties;

- ensuring the economical, effective and efficient use of resources, and for securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness as required by the Best Value duty;
- the financial management of the authority and its financial reporting; and
- the performance management of the authority and the reporting of performance management.

Review of effectiveness

[The authority] has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the executive managers within the authority who have responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

Describe the process that has been applied in maintaining and reviewing the effectiveness of the system of internal control, including some comment on the role of:

- the authority
- the executive
- the audit committee/overview and scrutiny committees/risk management committee
- the standards committee
- internal audit
- other explicit review/assurance mechanisms.

I/we have been advised on the implications of the result of the review of the effectiveness of the governance framework and system of internal control by the Authority, the executive/audit committee/overview and scrutiny committee/risk management committee (*amend list as appropriate*), and a plan to address weaknesses and ensure continuous improvement of the system is in place.

Significant governance issues

[Include an outline of the actions taken, or proposed, to deal with significant governance and internal control issues.]

We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

Signed:

Leading Member & Chief Executive on behalf of [the authority]

RESPONSE TO THE CONSULTATION DRAFT GOOD GOVERNANCE IN LOCAL GOVERNMENT: A FRAMEWORK

Thank you for the opportunity to comment on this consultation draft. Our comments are set out below:

1. General Comment

We very much welcome the updated framework document and the four dimensions that describe the role of a local authority, together with the six core principles that define the principles of good governance.

However, we found the document to be very long with considerable amounts of duplication that we feel leaves scope for careful editing. We found the concept of supporting principles problematic and the comprehensive nature of the local code requirements (or action points as we see it), to be unhelpfully presented. We wonder whether the guidance could be presented in much the same way as the key lines of enquiry for CPA and Use of Resources Assessment, showing perhaps three different levels of standard that authorities could seek in their governance arrangements.

Statement on Internal Control – aside from these general points, our main concern is that the recommended governance statement duplicates a number of requirements of the Statement on Internal Control currently required by the Accounts and Audit Regulations. We would suggest that the governance statement be incorporated into the existing requirements for the Statement on Internal Control to avoid duplication and to link corporate governance with the assurance framework, which already has legal backing.

2. Preface

The last paragraph stating that good governance is a key responsibility of the leader of the council and of the chief executive should, we felt, be given more prominence. We also thought this could provide an opportunity to recognise the role of other political group leaders in making them joint signatories to the statement

3. Introduction

Rather than repeating the dimensions on page 12 the additional information on this page could be set under the relevant dimension currently set out on page 11.

4. Framework for the development of a local code

Same comment as for the introduction – the additional information on each of the core principles of corporate governance can be included straight after each of the headings rather than repeating them all again on subsequent pages.

5. Principles of good governance

We think that there should be mention of the overview function in addition to scrutiny. We also think that there should be a requirement that the roles and responsibilities of the Overview and Scrutiny Members, committee chairs and group leaders be set out in a clear statement as part of the authorities governance arrangements.

RESPONSE TO THE CONSULTATION DRAFT GOOD GOVERNANCE IN LOCAL GOVERNMENT: A FRAMEWORK

In relation to protocols, we think that it might be helpful if a minimum set were identified, particularly in relation to technology, use of email and ward visits.

There is no reference to CPA, Use of Resources, or Statement on Internal Control requirements where the local requirements coincide with these.

We also wish to highlight the political and democratic dimension of local government organisations. We note that there do not appear to be any elected members on the Working Party. We are keen to recommend that this aspect is reflected in the revised framework and accompanying guidance when it is published.

Core Principle 3 – *promoting the values of the authority and demonstrating the values of good governance*. This was the section that we had most concern about with its reference to ‘shared values’ and ‘leadership values’. We feel that this needs reworking to make it clear as to what is being said. Also, we wonder whether the ‘multi-racial’ dimension has been effectively recognised.

We would like to see this written in a much simpler way reflecting the ideas set out in the useful book ‘Working Ethics – how to be fair in a culturally complex world’ by Richard Rowsen (published by Jessica Kingsley). The book puts forward an ethical framework that has four basic values that may be summarised by the useful mnemonic FAIR i.e.

- Fairness
- Respecting Autonomy
- Integrity
- Seeking the most beneficial and least harmful consequences, or Results

Core Principle 8 – *developing capacity and capability*. We were interested in the proposal that arrangements needed to be put in place to review the performance of the executive as a whole and of individual members and we wondered who was going to do this.

6. Annual Review and Reporting

As stated under our general comments above we feel that the requirement for a Governance Statement duplicates in part the requirement to produce a Statement on Internal Control.

We hope that you find these comments of use when finalising the Framework.

Many thanks,

Marie Rosenthal
Group Director Resources SBC

11 September 2006

Agenda Item 7

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

Document is Restricted

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