

## Swindon Borough Council

# Standards Committee

**Monday, 19 March 2007**

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

**At 5.00 p.m.**

### Councillors

Melanie Duff  
Peter Stoddart (Deputy)  
(Conservative)

Maurice Fanning  
Fay Howard (Deputy)  
(Labour)

Martin Wiltshire  
(Liberal Democrat)

### Independent Members

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

### Parish Representative

Mr Mike Compton  
Mr Richard Hailstone (Deputy)

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

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

Swindon Borough Council can be contacted at the Civic Offices, Euclid Street, Swindon, SN1 2JH (Telephone 01793 463000)

---

## 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 - 6)
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. Ethical Framework Update (DLDS-R) (Pages 7 - 36)

9 March 2007 (being date of agenda despatch)

### Key:

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.

This page is intentionally left blank

### STANDARDS COMMITTEE

**MONDAY, 26 FEBRUARY 2007**

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

#### **22. Declarations of Interest**

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

#### **23. Minutes**

Resolved – That the minutes of the meeting held on 29<sup>th</sup> January 2007, be confirmed and signed as a correct record.

Matters Arising – Further to Minute 20 (iii), the Director of Law and Democratic Services confirmed that as requested by the Committee he had written to the Standards Board for England to offer the Committee as a pilot for local filtering of complaints and to support the Standards Board's new monitoring and auditing role.

#### **24. Public Question Time**

No public questions were received during the meeting.

#### **25. Consultation on Amendments to the Model Code of Conduct**

The Committee received a report on the proposed changes to the Model Code of Conduct for Local Authority Members issued as part of a consultation by the Department for Communities and Local Government (DLCG). Comments on the consultation were invited by 9<sup>th</sup> March 2007.

**Agreed that** – The Director of Law and Democratic Services be authorised to respond to the Consultation Paper as set out at Appendix '1'.

**SWINDON BOROUGH COUNCIL**  
*Response to Consultation Questions*

Question 1

Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

**Comment:**

**This issue was discussed by the Council's Standards Committee last year when the Government first announced its intention to review the Code. It is now proposed that disclosure of information acquired by a member in confidence is not a breach of the Code if the member can demonstrate that it was in the public interest to disclose. This accords with the principles of the Freedom of Information Act. Under that Act, however, the public interest test is not applied and determined by an individual member. The Standards Board is to issue guidance on how they would expect members to interpret the new provision.**

**The Standards Committee previously expressed the view that the 'public interest defence' should be as restricted as possible and that to give members discretion to make their own judgement runs the risk of the test being applied inconsistently by different members and the perception that political factors could play a part.**

**The Standards Committee wish to emphasise their view that the public interest defence be as restricted as possible, and that there should be a requirement in the Code that before disclosing confidential information, members should be specifically required to consult the relevant officer of their authority responsible for deciding on the public interest test and have regard to that advice.**

Question 2

Subject to powers being available to us [ie the Government] to refer in the Code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the Courts, appropriate?

**Comment:**

**Currently, a member can be found to have breached the Code if he/she is found to have conducted him/herself in a manner 'which could reasonably be regarded as bringing his/her office or the Authority into disrepute'. This includes conduct by a member when acting in a private capacity. The Standards Committee recalled that a recent judgement in the High Court concerning the Mayor of London has cast doubt on the ability of the current Code to proscribe the behaviour of members acting in a private capacity. The Government has declared its intention to amend the Local Government Act 2000 to ensure that behaviour in a private capacity is included within the remit of the Code.**

**The Government is suggesting that the Code be amended so that only private behaviour for which a member has been convicted by a court should be a breach of the Code, and not behaviour falling short of a criminal offence. The Standards Committees own view is that only criminal activity of a sufficiently serious nature (ie imprisonable) should be able to be taken into account in determining if a Member is bringing the Council into disrepute. Accordingly, this proposal be supported with that caveat.**

### Question 3

Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by Local Government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

### **Comment:**

**The Publicity Code concerns the content, style and distribution of promotional activity and material produced by authorities, supplementing the basic statutory requirement that authorities must not use their resources for political purposes. The revised Code of Conduct now includes a requirement that a member must have regard to any Local Authority Code of Publicity.**

**The Consultation Paper makes the point that the Publicity Code may be unnecessary given the basic statutory requirement upon authorities and members individually not to use the authority's resources improperly for political purposes.**

**Certainly the Publicity Code needs to be updated but while it exists, it would seem sensible for Members to be required to have regard to it. The Standards Committee considers that it would be useful to specifically provide in the Code that Members should not only have regard to the Publicity Code but also to any other statutory guidance that may be relevant in relation to any aspect of the Code.**

### Question 4

Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

### **Comment:**

**The Standards Committee considers that it is difficult to argue against the suggestion that the receipt of gifts or hospitality is an interest which should be registered as a personal interest and be publicly available. The revised Code suggests retaining the £25 value threshold. The Standards Committee has not felt in the past that there is any need to change the £25 threshold and supports this proposal.**

#### Question 5

Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

#### **Comment:**

**The definition of ‘personal interests’ has been extended to include matters affecting personal, business and professional associates as well as people who would specifically be termed family and friends. The Code now refers to ‘any person with whom the member has a close personal association’. This is qualified to the extent that a personal interest exists only ‘where the member is aware or ought reasonably to be aware’ of the interest.**

**The Standards Committee has previously been of the view that ‘close personal associate’ still requires a value judgment to be made as to how close the personal association may be and so considered that it did not greatly help in resolving the previous problem as to how to define the word ‘friend’. Nevertheless, this provision will require more personal interests to be declared than before as another category of people has been added to the list of those who the Member must have regard to in assessing whether or not there is a personal interest. The Standards Committee considers that the aims set out in Question 5 have not been achieved because of the difficulty in defining those within the ambit of the proposed text.**

#### Question 6

Would it be appropriate for new exceptions to be included in the text of additions to the list of items, which are not to be regarded as prejudicial?

#### **Comment:**

**Paragraph 17 of the DCLG consultation document lists new items which it is proposed to add to the list of interests which are not to be regarded as prejudicial.**

**Although the new exceptions relating to ‘Indemnities’ and the Freedom of the Borough have not been a problem at this Authority in that they have not been considered to amount to prejudicial interests anyway, the provision in relation to Council Tax may cause some confusion. As drafted, it relates purely to the ‘setting’ of the Council Tax which is done at the Budget Meeting, and it may be necessary for clarification as to whether this also covers funding discussions during the year.**

**There are two important changes to the section of the Code dealing with prejudicial interests which are not the subject of a question in the DCA consultation document, but which the Committee need to be aware of. The first is a new category of public service interest where a member is also a member of another public body. The revised Code proposes that the public service interest need only be declared at meetings where the member speaks on the relevant issue.**



#### Question 7

Is the proposed text relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions or give evidence, appropriate?

#### **Comment:**

**This is a contentious part of the new Code. Hitherto it has been clearly understood that the Code prevents a member from being present at a meeting when a matter is under discussion in which he/she has a prejudicial interest. There have been legal challenges to this part of the Code, but all have failed. However, there has been concern in a number of quarters that this provision effectively denies a member from properly undertaking his/her constituency role, and the Government has responded to this concern by proposing an amendment to the Code.**

**This amendment would allow a member to attend a meeting for the purpose of making representations, answering questions or giving evidence relating to a matter, provided that the meeting agrees that the member may do so and that after making representations the member withdraws from the room where the meeting is being held.**

**The Standards Committee have previously taken the view that Members should not be able to speak at a meeting where they have a prejudicial interest as this could influence the outcome and have an adverse effect on the public's perception of the ethical standards of the Council. The Committee remains of that view and considers that the proposed text is not appropriate.**

#### Question 8

Is there a better, more user friendly way of ensuring the text is gender neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible Code for Members ?

#### **Comment:**

**No comments have been received by the Monitoring Officer from Members of the Council that the use of 'he or she' or 'him or her' is not user friendly. The Standards Committee does not consider that amending the wording is necessary or desirable.**

This page is intentionally left blank

## Ethical Framework Update

Standards Committee

Date: 19 March 2007

---

**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 Committee approve the Ethical Audit Desktop update and agree next steps.

## 1. Reasons

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

## 2. Detail

### Ethical Audit

#### *Background Information*

#### Corporate Governance Inspection Report - 2004

- 2.1 In January 2005, the Committee was updated on the external Corporate Governance Inspection Report 2004 as it related to the work of the Standards Committee. In summary, the report concluded that 'the Council's approach to standards of conduct is in line with government guidance and there were some strengths'. In particular, the report commented that the remit of Standards Committee is wider than that statutorily required; that staff have variable awareness of the whistle-blowing policy but are generally positive about the degree of openness and awareness in the council; and that the register of councillors interests is available for public scrutiny on the Council's website.
- 2.2 The report further commented that the Standards Committee had been pro-active and robust, and was active in implementing the code of conduct and register of interests, and that there was an acceptance of the responsibility for standards overview of parishes. The report recognised that Councillor-Officer relationships had improved greatly but the level of mutual respect between council staff and Councillors was still not quite

---

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

# Ethical Framework Update

Standards Committee

Date: 19 March 2007

---

where it should be to get the most from the workforce. The Committee considered it important to continue to improve in this area.

## Ethical Audit – January 2005

- 2.3 The Ethical Audit Working Group of the Standards Committee carried out a desktop ethical audit of the Council on 19<sup>th</sup> January 2005 against the criteria set out in a Ethical Audit Toolkit prepared by the IDeA (Improvement and Development Agency). A copy is attached at Appendix '1'.
- 2.4 This was reviewed by the Committee in June 2005 who confirmed that this demonstrated compliance with all the elements required for the ethical framework and that all the necessary processes and procedures were in place. Key actions were agreed in relation to a small number of areas including Ethical Training for Officers, Training for Parish Councils, Members Training, and these have been carried out.

## Corporate Assessment Report – October 2006

- 2.5 The Corporate Assessment of the Council carried out by the Audit Commission in 2006 concluded that decision-making is open and transparent, and appropriate mechanisms are in place and are effective in ensuring good, ethical standards are maintained. The report went on to say that Codes of conduct and protocols are in place, and action has been taken in instances of improper conduct.
- 2.6 So far as training for councillors is concerned, there is no specific reference to ethical training but the report does say that the programme for councillors needs to be developed beyond the immediate period. This has been taken into account when looking at the training programme for members and considerable work has been done in this area.

## External Audit – Use of Resources 2006

- 2.7 The Swindon Borough Council External Audit 2006-07 Report was issued during February 2007. One element of the audit relates to the assessment of the Internal Controls in place in the Council, which includes the ethical framework operating within the Council.
- 2.8 Set out below are the results for the Internal Control element for 2006 compared to those provided for 2005, which shows an improvement from level 2 in 2005 to level 3 in 2006.

---

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

## Ethical Framework Update

Standards Committee

Date: 19 March 2007

Theme	KLoE ref.	KLoE description	2006 score	2005 score
Internal Control	4.1	Risk management	2	1
	4.2	Systems of internal control	3	2
	4.3	Conduct and anti-fraud and corruption	3	2
		Overall	3	2

2.9 So far as issues with which the Standards Committee is concerned, the Audit Commission advises that key strengths for internal control include: -

- the Council's standards committee plays a key role in developing the ethical framework for officers and members. The committee has monitored progress, on a quarterly basis, of the annual ethics work programme, as developed by the Council's ethical audit working group;*
- the Council has standing orders and standing financial instructions within the constitution and a scheme of delegation, these are formally reviewed and presented before Council on an annual basis. Codes of conduct have now been developed for all staff;*
- the whistleblowing policy is well publicised to all staff. Cases of whistleblowing are monitored by the Standards Committee on a quarterly basis;*
- there is a counter fraud and corruption policy to applying to all aspects of the council's business, which has been communicated throughout the council. Further processes have been put in place to raise the awareness of fraud across the Council, including the publication of quarterly fraud bulletins. Internal Audit 's annual audit plan incorporates a specific programme of work on fraud issues;*
- since March 2006, the Council has had an Audit Committee structure in place, independent of the scrutiny and executive functions, with its terms of reference set out in accordance with best practice.*

2.10 Again so far as issues with which the Standards Committee is concerned, the Audit Commission suggests that the Council needs to focus attention on the following to improve further:

- the Council will need to provide strong evidence that the anti-fraud and whistleblowing arrangements is acknowledged and understood across all departments to progress to the next level.*

---

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

# **Ethical Framework Update**

**Standards Committee**

**Date: 19 March 2007**

---

## Ethical Audit – March 2007

- 2.11 The Committee requested at its meeting on 29<sup>th</sup> January 2007 that the Monitoring Officer refresh and update the desktop audit and report back to the Committee so that a gap analysis can be carried out and the Committee determine appropriate next steps. A copy of the updated Desktop Audit is attached at Appendix '3'.
- 2.12 The Committee is asked to consider the Audit in the light of the External Audit report, and the progress made in relation to Ethical Standards, and consider what further action is appropriate.

## IDeA Ethical Governance Health Check

- 2.13 The Monitoring Officer recently acted as a Peer Reviewer on an IDeA Ethical Governance Health Check carried out for the London Borough of Richmond.
- 2.14 This was a very useful exercise and has informed the Desktop Audit, and the Monitoring Officer will report further at the meeting.

## Standards Board Publications

- 2.15 Attached at Appendix '3' is the Standards Board Bulletin for February 2007 (Issue 32) which includes:
- details of the Code of Conduct consultation, including a summary of the key changes which have been implemented following the Standards Board's recommendations.
  - a look at the main provisions in the Local Government and Public Involvement in Health Bill which relate to standards.
  - details of this year's Annual Assembly and of the programme of roadshows across the country.
  - an invitation to get involved in pilot schemes to help the Standards Board develop its new role as a strategic regulator.
- 2.16 As agreed at the meeting of the Committee on 29<sup>th</sup> January 2007 the Monitoring Officer has written to the Standards Board to offer this Committee as a pilot in relation to the local filtering of complaints and / or developing the Standards Board's monitoring and auditing role as light touch, strategic regulator.

---

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

# **Ethical Framework Update**

**Standards Committee**

**Date: 19 March 2007**

---

## **Ethical Compliance Update**

- 2.17 The Monitoring Officer has not been notified of any new complaints since the last meeting in respect of whistle-blowing, a breach of the Member / Officer Protocol or with regard to a breach of the Code of Conduct. Current investigations are ongoing and a further report will be made to the next meeting of the Committee.

## **Work Programme 2006/07 Matters:**

### **Anti-Fraud and Corruption and Whistleblowing Policies**

- 2.18 At the meeting on 29th January 2007, the Committee agreed for a consultation to take place on the revised Anti-Fraud and Corruption and Whistle-blowing Policies.
- 2.19 The Head of Internal Audit is currently consulting with Officers, External Audit, Capita, Unions and other relevant stakeholders on these policies, and will report back to the next Standards Committee for their final approval.

### **Revision of Media Guidelines for Members**

- 2.20 In October, the Committee agreed for a consultation to take place on the revised Media Guidelines for Members, which form part of the Constitution and of the Communications Strategy.
- 2.21 The Head of Communications is currently consulting with Members on the revised Media Guidance for Members and will report back with the Guidelines for final approval to the next Standards Committee.

### **Review of Council Codes and Protocols**

- 2.22 As part of the Work Programme approved in July 2006, it was agreed that the Committee would consider and review Council Codes and Protocols. It is suggested that this piece of work be included as part of the work programme for the municipal year 2007/08, in order that the principles of the New Code of Members Conduct anticipated shortly can be taken into account during the review.

## **Alternative Options**

- 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](mailto:staylor@swindon.gov.uk).

# Ethical Framework Update

Standards Committee

Date: 19 March 2007

## Risk Management

### *Financial and Procurement Implications*

- None

### *Legal / Human Rights Implications*

- None

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

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

## Consultees

- 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
- Head of Internal Audit

## Background Papers and Appendices

- Appendix 1 – Ethical Desktop Audit dated 19<sup>th</sup> January 2005
- Appendix 2 - Proposed Ethical Desktop Audit – March 2007
- Appendix 3 - Standards Board Bulletin for February 2007 (Issue 32)

---

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



Ethical Audit Desktop Analysis  
Matrix of Key Information held by Swindon Borough Council

Appendix 1

	<b>Key Information</b>	<b>Held</b>	<b>Comment:</b>	<b>Possible area of Review</b>
1	(New//Draft) Constitutions/ Current Decision Making Framework (ie the committees and sub-committees)	Yes	Constitution last updated June 2004. Considered fit for purpose, up-to-date and well-communicated by 2004 CGI report, although not well-developed in relation to scrutiny functions.	
2	Procedural Standing Orders (Old And New)	Yes	Updated in Constitution – June 2004	
3	Contracts Standing Orders	Yes	Updated in Constitution – June 2004, adapting CIPFA model.	
4	Employees' Code Of Conduct	No	Existing terms and conditions of employment are in place but a Comprehensive Employee's Code has not been adopted. The Statutory Code has been awaited for some time. A consultation paper 'A Model Code of Conduct for Local Government Employees' was issued in September 2004 by the ODPM to which the Standards Committee responded. The Council adopted an Anti-Fraud and Corruption Strategy in November 2001, and investigations are reported to the Standards Committee.	The Statutory Code has not yet been issued.
5	Members' Code Of Conduct (Current And New Draft Plus Local Variations) plus Local Guidance	Yes	Adopted by the Council in May 2002 and based on the model code from the Secretary of State. The Standards Board is about to consult on a review of the Code and this will be referred to the Standards Committee. No local guidance has been issued but members are kept updated by the Monitoring Officer as to how the Code is being interpreted by the Standards Board and the Adjudication Panel.	Graham Committee has commented on the Code and the Standards Board is about to start a consultation on it. All Councillors have been asked for their views on the operation of the code.
6	Confidential Reporting Procedure	Yes	The Whistleblowing Policy was approved in November 2001. A number of complaints have been	Currently under review by Standards

			received and investigations undertaken which are reported to Standards Committee. Employees are reminded about the procedure via staff communications, including in the Core Brief.	Committee.
7	Terms Of Reference of the Standards Committee	Yes	The Standards Committee has an extended terms of reference, beyond the minimum required by statute, in particular in relation to its monitoring of Anti-Fraud and Corruption Strategy and Whistleblowing Complaints.	
8	Scheme(s) Of Delegation	Yes	Last updated June 2004, in particular to include new delegation of decision-making to Cabinet Members. Internal Audit will shortly be reviewing this process to check its operation after 6 months in place.	
9	Members' Register Of Interests	Yes	Held on file and on the Council's website. Regular reminders are issued. Members can in addition make voluntary declarations in addition to the statutory requirements and these are held on file.	
10	Recorded Declaration Of Interests	Yes	Interests are recorded at meetings and are recorded on the website.	
11	Members' Induction Process	Yes	New councillors provided with induction process. Members are required to carry out training in respect of Planning and Licensing prior to taking part in these regulatory committees.	Review of induction and need for CPD and annual MOTs, and the need for compulsory training.
12	Officers' Induction Process	Yes	Central induction process is in place. Departmental induction processes are in place so far as is known. It could be useful to consider how ethical training and accountability issues are being addressed in that training.	Head of HR could be requested to attend Standards Cttee to explain new procedures.
13	Members' Continuing Development	Yes	A range of development / training opportunities are offered and a record of attendance kept	See (11) – Could be reviewed.
14	Members' Training	Yes	A range of Training is in place and a record of attendance kept. IDeA have funded a Member Development Officer on a short term basis to develop Member Training. The 'infrequent attendance of	See (11) and (13) – Could be reviewed. A standard reporting back procedure

			members at training events' has been criticised in the recent CGI report.	could be introduced for all Members to benefit from training and CPD.
15	Officers' Continuing Development	Yes	A system of annual appraisals are in place, and a new competencies based appraisal is being rolled out across the Council, and has commenced with Chief Officers and 1 <sup>st</sup> -3 <sup>rd</sup> Tier Officers.	See (12) above.
16	Officers' Training	Yes	A range of Officer training is available, and training needs are identified as part of the standard and competency appraisal systems.	See (12) above.
17	Other Council Specific Additional Codes And Protocols		<p><u>Monitoring Officer Protocol</u> - Adopted in December 2001 - may need adjustment following the introduction of powers for Monitoring Officers to investigate complaints under the Code of Conduct.</p> <p><u>Guidance to Councillors on Dealing with the Media</u> - adopted February 2002.</p> <p><u>Protocol on Member / Officer Relations</u> - introduced September 2002. The Association of Secretaries and Solicitors (ACSeS) have produced a model code, some of which is based on this Council's protocol, which will be considered as part of the current review.</p> <p><u>Members' Planning Code of Good Practice</u> - adopted February 2004.</p>	<p>All currently under review by Standards Committee and all Councillors have been asked for their views.</p>

19<sup>th</sup> January 2005

This page is intentionally left blank

Ethical Audit Desktop Analysis  
Matrix of Key Information held by Swindon Borough Council  
March 2007

Appendix 2

	<b>Key Information</b>	<b>Held</b>	<b>Comment:</b>	<b>Possible area of Review to be identified by the Standards Committee</b>
1	Constitutions/ Current Decision Making Framework (ie the committees and sub-committees)	Yes	<p>The Constitution is reviewed and updated at least annually and was last updated August 2006. Its operation is monitored by the Monitoring Officer and also by the Corporate Governance Working Party whose recommendations feed into the review process.</p> <p>The Constitution was considered fit for purpose, up-to-date and well-communicated by the 2004 CGI report, although not well-developed in relation to scrutiny function. The 2006 Corporate Assessment concludes that Scrutiny is now well run and challenging, and contributes to service improvement via a clear role in performance management.</p> <p>An Audit Committee was established in May 2006 and will receive assurances from the Standards Committee in relation to matters of internal control such as the operation of the Whistleblowing Policy.</p> <p>As the Council is increasingly working with external partners and stakeholders, consideration needs to be given as to whether a Code of Conduct applicable to such partnerships should be drawn up. Further, in order to share learning and experiences with our stakeholders and external partners, it may be useful to convene a Standards Conference at which such matters can be explored.</p>	

2	Procedural Standing Orders	Yes	Updated in Constitution – August 2006	
3	Contracts Standing Orders	Yes	Updated in Constitution – August 2006	
4	Employees' Code Of Conduct	Yes	Following consultation with Council employees and unions, the Employee Code of Conduct was approved by the Standards Committee in July 2006. The Code of Conduct has been issued to all Council employees, who have been asked to sign to confirm that they have read and will act in accordance with the Code.	
5	Members' Code Of Conduct (Current And New Draft Plus Local Variations) plus Local Guidance	Yes	<p>Adopted by the Council in May 2002 and based on the model code from the Secretary of State. The Standards Board have consulted on a revised Code of Conduct, and the Standards Committee has responded. The Monitoring Officer submitted the comments on the latest revision on 7<sup>th</sup> March 2007.</p> <p>A new National Code is anticipated shortly for adoption in time for the new municipal year. The Monitoring Officer will provide guidance and training to Officers and Members as soon as the new Code is adopted.</p>	
6	Confidential Reporting Procedure	Yes	<p>The Whistleblowing Policy was approved in November 2001. Complaints received are investigated and the outcome reported to the Standards Committee. Employees are reminded about the procedure via staff communications, including in the Core Brief.</p> <p>The Committee approved in September 2005, the renewal of the Council's subscription to the Public Concern at Work Helpline up to January 2009, to provide a formal method of confidential reporting for staff who do not feel able to raise issues directly with the Council.</p> <p>In January 2007 the Committee considered a revised version of the Whistleblowing Policy. The Committee commended the</p>	

			position maintained by the Council of encouraging Officers to come forward and report matters of concern without disadvantaging their position. This was being demonstrated by the fact that all those who had used the policy were employed by the Authority and that two had subsequently received promotion. The revised policy is currently out for consultation and will be brought to the Committee for approval shortly.	
7	Terms Of Reference of the Standards Committee	Yes	The Standards Committee has an extended terms of reference, beyond the minimum required by statute, in particular in relation to its monitoring of Anti-Fraud and Corruption Strategy and Whistleblowing Complaints.	
8	Scheme(s) Of Delegation	Yes	Updated at least annually and last updated August 2006, in particular to include new Council structures and portfolio responsibilities.	
9	Members' Register Of Interests	Yes	Held on file and on the Council's website. Regular reminders are issued. Members can in addition make voluntary declarations in addition to the statutory requirements and these are held on file.	
10	Recorded Declaration Of Interests	Yes	Interests are recorded at meetings and are recorded on the website.	
11	Members' Induction Process	Yes	New councillors are provided with a comprehensive induction programme. Copies of the programme for the Induction Day and Draft Training Programme for May to December 2007 is attached at Annexes A and B as examples.	
12	Officers' Induction Process	Yes	Corporate induction process is in place and departmental induction processes are also in place.  Specific training has been included in the Officers' Induction Process in relation to the ethical framework. It could be useful to check how this is being implemented across departments.	

13	Members' Continuing Development	Yes	<p>A range of development / training opportunities are offered and a record of attendance kept</p> <p>All Councillors have been offered the opportunity to develop Personal Development Plans in order to identify any training and development gaps and to help to develop a Member Training Programme for the year. 34 members have undertaken these to date.</p> <p>The Members Support Officer has developed a new skills and knowledge matrix which has been approved by the Members Development Steering Group. This identifies the various roles of a Councillor, the skills and knowledge needed and the learning and development source. This will be available on the intranet in order that Members can undertake a self-assessment of the training and knowledge gaps and requirements. A printed copy of the document will be made available to all new members on their election to enable them to understand their new roles.</p>	
14	Members' Training	Yes	<p>A range of Training is in place and a record of attendance kept. A copy of the draft training programme for 2007/08 is attached at Annex B.</p> <p>A standard procedure was introduced in January 2005 for Councillors to report back on their attendance at Conferences and External training events via the Members Bulletin.</p>	
15	Officers' Continuing Development	Yes	A competencies based system of annual appraisals is in place across the Council which identifies development needs.	
16	Officers' Training	Yes	A range of Officer training is available, and training needs are identified as part of the appraisal system.	
17	Other Council Specific Additional Codes And Protocols		<u>Monitoring Officer Protocol</u> - Adopted in December 2003 and reviewed by the Committee on 18 <sup>th</sup> April 2005 following	



		<p>consultation with Members. It may be appropriate for this to be adjusted following the introduction of powers for Monitoring Officers to investigate complaints under the Code of Conduct and the Monitoring Officer's role in supporting the local filtering of Standards Board Complaints.</p> <p><u>Guidance to Councillors on Dealing with the Media</u> - adopted February 2002. A revised code was considered by the Committee in October 2006 and is currently subject to consultation with Members.</p> <p><u>Protocol on Member / Officer Relations</u> - Introduced September 2002 and reviewed by the Committee on 18<sup>th</sup> April 2005 following consultation with Members. The Association of Secretaries and Solicitors (ACSeS) produced a model code, some of which is based on this Council's protocol.</p> <p><u>Members' Planning Code of Good Practice</u> - adopted February 2004, and reviewed by the Committee on 18<sup>th</sup> April 2005 following consultation with Members. This will need to be reviewed following the introduction of the new Code of Conduct for members.</p> <p><u>Anti-Fraud and Corruption Strategy</u> – adopted November 2001, and investigations are regularly reported to the Standards Committee. In January 2007 the Committee considered a revised version of the Anti-Fraud and Corruption Strategy. This is currently out for consultation and will brought to the Committee for approval shortly.</p> <p>A Swindon Internal Audit Services Bulletin is issued to Members and Officers approximately twice a year to promote fraud awareness by communicating information on frauds elsewhere to officers and Members, and enable similar frauds to be prevented.</p>
--	--	---



Induction Programme for New Members 9 May 2007 – Function Room		
Welcome to Swindon Borough Council Introduction to the Corporate Board Outline of the functions of the Departments	9.00 am – 10:00 am <b>Breakfast</b>	Chief Executive Chief Officers
The role of a Councillor. The experiences of Members Casework and Surgeries	10:00 am to 10:20 am	Leader and/ or Deputy leader of the Council Group Leaders and/senior members
Equalities and Diversity – A taster Session for New Councillors - Age Discrimination	10:20 am to 10:40 am	Allan Daley Learning and Development
Conflict Management – A taster session for new councillors	11:00 am to 11:30 am	Amanda Dickinson Learning and Development
	11:15 am 11:40 <b>Coffee Break</b>	
Lone working/Health and Safety Issues for new Councillors	11:40am – 12:10 Noon	Amanda Woodhead Safety Manager
Ethics and Probity (directed at new members but all members of the council invited) <i>Opportunity to complete Register of Interest</i>	12.10 - 1:00 pm	Stephen Taylor Monitoring Officer
<b>Lunch</b>		
<b>Opportunity to meet the Chief Executive, Group Directors and other Key officers and Members</b>		
	1:00 pm – 2:00 pm	
Regional Spatial Strategy Regional Assembly – Economic Development and Regeneration	2:00 pm – 3:00 pm	Leader of the Council Cabinet Member for Economic Development and Regeneration/Cabinet member for Strategic Planning
<b>Mock Meeting</b> <i>(introduction to the Council Chamber, use of microphones etc))</i>	3:00 pm – 4:00 pm	Stephen Taylor and other key officers Councillor Kevin Small and other members
<b>Invitation from the Mayor to join him in the Parlour</b> <i>Light refreshments will be available</i>	4 pm	The Mayor, Councillor Mike Bawden

Coffee / Tea/ orange juice//water to be available throughout the day.

This page is intentionally left blank

## Draft Members Training Programme May to December 2007

Date, Time and Venue	Subject	Facilitator
9 May 2007 9 am until 5 pm	<b>Induction Programme for New Members</b> <ul style="list-style-type: none"> <li>• The role of a Councillor</li> <li>• Equalities and Diversity</li> <li>• Conflict Management.</li> <li>• Lone working</li> <li>• Ethics and Probity</li> <li>• Regional Spatial Strategy</li> <li>• Regional Assembly</li> <li>• Economic Development and Regeneration</li> <li>• Mock Meeting</li> <li>• Visit to Mayor's Parlour</li> </ul>	The Mayor/Senior Members Key Officers
10 May 2007 6 pm – 8 pm	<b>Planning for Committee Members</b> Essential Training for Members of the Planning Committee	Dave Potter Director of Planning
14 May 2007	<b>Licensing for Committee Members</b> Essential Training for Members of the Licensing committee.	Lionel Starling Licensing Officer
22 May 2007	<b>2<sup>nd</sup> Annual Scrutiny Conference</b>  We are pleased to welcome back Robert Rogers as Keynote Speaker at this year's Annual Overview & Scrutiny Conference. Robert will provide an insight to the workings of Select Committees in Westminster as well as some interesting anecdotes regarding some of his experiences in Parliament.  The aim of the Conference is to gather the views of Members, officers and local stakeholders in preparation of the Swindon Overview Committee work programme for 2007/08.  It also provides a valuable opportunity to increase the understanding and awareness of Members, officers and other stakeholders in relation to the role of Overview & Scrutiny within the	Keynote Speaker Robert Rogers, Clerk of Legislation to the House of Commons

	Council.	
24 May 2007 2pm – 6 pm  6pm – 8 pm	<p><b>Media Training- Daytime session - for new Members</b></p> <p><b>Advanced Media Training</b> –for more experienced members - Interview techniques at the BBC Swindon Radio Studios</p>	Gail Downey Red Admiral Productions
30 May 2007 12 - 2 pm or 6 - 8 pm	<p><b>Anti- Smoking in Public Places Legislation</b> From 1 July 2007, virtually all enclosed public places and workplaces in England will become smokefree. This will mean that it will be illegal to smoke (or to allow others to smoke) in places such as pubs, clubs, factories, betting shops, bingo halls, restaurants, taxis etc and statutory signage must be displayed. Smoking rooms within premises will also be illegal.</p> <p>The Act will also apply to all Council buildings and vehicles, even, for example, to areas such as entrances, stairwells and lifts in blocks of flats and to some bus-shelters.</p> <p>The training session will help you understand how the legislation applies, what the Authority has done to prepare businesses and the approach that will be taken to ensure compliance.</p>	Russell Sharland Environmental Health Tel 466145
7 June 2007 Daytime	<p><b>Induction Workshop</b></p> <p>The course aims to provide new Members with an overview of local governance and to equip them with the underpinning knowledge and confidence to carry out their new roles and responsibilities effectively.</p> <ul style="list-style-type: none"> <li>• The Elected Councillor and the democratic mandate</li> <li>• What is this organisation to which you have been elected?</li> </ul>	<p>Graham Russell South West Regional Assembly</p> <p>Workshop organiser Pam Robinson Admin Assistant South West Provincial Employers Tel: 01823 425203</p> <p>Application Forms available</p>

	<ul style="list-style-type: none"> <li>• Modern local governance arrangements for leading local communities and providing services</li> <li>• Getting involved in reviewing what the council and others are doing – making a difference</li> <li>• The member and officer relationship – an understanding of the respective role and responsibilities</li> <li>• Making the most of your role including support available to you</li> <li>• The legal and constitutional framework that supports your role</li> <li>• Councillor development opportunities</li> </ul>	from Sally Rhind-Tutt and should be completed and returned to South West Regional by 14 May 2007.
19 June 2007 12 – 2 pm or 6 - 8 pm	<b>Equalities and Diversity – for all members</b>	Allan Daley Learning and Development
20 June 2007 morning	<b>Health Scrutiny Training</b> The role of members in the scrutiny of local health service provision	Scrutiny Officers
21 June 2007 evening	<b>Housing Tour</b> Details to be finalised	Gerry O'Connor Housing Property Manager 01793 463452 go'connor@swindon.gov.uk
23 July 2007 6- 9 pm	<b>Local Government Finance</b> An introduction to local authority finances in general, and the Swindon Borough Council context specifically.	Stuart McKellar Director of Finance
11 October 2007	<b>Provisional Member Development Evening</b> At Cre8 Studios to include Ethics and Probity Training	
21 December 2007 12 – 2 pm	<b>Christmas Quiz</b>	Committee and Member Support Officer

This page is intentionally left blank



## Contents

- 1 Consultation on the Code of Conduct
- 3 The Local Government and Public Involvement in Health Bill
- 3 Directions
- 4 The revised Code of Conduct — acceptance of office
- 5 Annual Assembly 2007
- 6 Guidance programme for 2007
- 7 On the road with the Standards Board
- 8 After Livingstone — bringing your office or authority into disrepute
- 8 Seeking volunteers

## Welcome to the February issue of the *bulletin*.

This is a timely edition of the *bulletin* — as we go to print we are in the middle of the government's consultation period on the wording of the revised Code of Conduct, and the *Local Government and Public Involvement in Health Bill* is going through the committee stage in the House of Commons. You will find articles on both of these issues in the pages that follow.

If the revised Code is to be introduced in time for the local elections in May, there is much work to do. We know that monitoring officers and members are keen to receive new guidance at the earliest opportunity, and work is well underway to make sure that it is ready to be released as soon as the new Code is published.

The *Local Government and Public Involvement in Health Bill* includes all the necessary provisions for a more locally-based conduct regime, with more responsibilities for standards committees and the Standards Board acting as a light touch regulator. It is anticipated that these arrangements will be introduced in April 2008. If they are to operate effectively from the outset, it is important that we start to work with authorities as soon as possible to develop examples of good practice. These can then be shared across all standards committees.

You will find an invitation in this issue of the *bulletin* for authorities that are interested in being involved in pilot work on the operation of the local filter, joint working or performance monitoring. The Standards Board is looking forward to working with a range of standards committees to develop robust arrangements, and to help ensure that the new devolved system of dealing with allegations has the confidence of members, officers and the public.

**David Prince, Chief Executive**

## Consultation on the Code of Conduct

The Department for Communities and Local Government (DCLG) has started its consultation process on amendments to the Model Code of Conduct. The consultation paper can be found in the consultation section of DCLG's website at [www.communities.gov.uk/](http://www.communities.gov.uk/).

The closing date for responses is 9 March 2007, so authorities wishing to submit views will need to act quickly.

The Standards Board for England welcomes the proposed changes and the support they will give to members in their community advocacy role. We will

continue to work with government and stakeholders as the consultation process continues and will be encouraging early implementation of the revised Code.

---

**“It is important that the opportunity to have a clear, workable Code of Conduct — one that helps maintain high standards of conduct and supports democratic debate — is not lost.”**

---

The revised Code implements almost all of the headline recommendations the Standards Board made to ministers following an extensive consultation with local government.

These are summarised as follows:

- The definition of personal interest has been changed to provide a more locally-based focus, to ensure that interests shared with a substantial number of other residents do not need to be declared.
- A new category of 'public service interest' has been introduced. This will make requirements less onerous for dual-hatted members and those members appointed or nominated by the authority to outside bodies.
- The unlawful discrimination provision is to be replaced by a duty that members should not do anything that would seriously prejudice their authority's statutory duties in regard to equality. This will allow action to be taken on some discrimination issues that have previously been outside the scope of the Code.
- Bullying is specifically referred to in the Code and its definition will be clarified by our published guidance.
- The 'whistleblowing' duty to report breaches by other members has been removed.
- Members will be able to disclose confidential information in the public interest (with Standards Board guidance on a public interest test).
- Certain behaviour outside of official duties will be regulated but it will be limited to unlawful activities (although implementation of this part of the Code will have to wait until the *Local Government and Public Involvement in Health Bill* is enacted).

- Prohibiting the intimidation of any person involved in an investigation, including the complainant, witnesses and officers of the authority.

The consultation paper also proposes changes to the rules relating to participation in meetings by members who have a prejudicial interest. With the consent of a meeting, those members will be allowed to make representations and answer questions on the matter before withdrawing from the room. This will particularly benefit members that may, for example, wish to make representations to a planning committee on their own planning application.

It is proposed that the current four model Codes will be combined into one consolidated Code. Certain provisions, such as those relating to overview and scrutiny, will not apply to authorities that do not operate executive arrangements.

The consultation paper is silent on the timing and implementation of the revised Code of Conduct following consultation, although the Standards Board understands that the revised Code is intended to be tabled in Parliament later in March, and that authorities will then have six months from May 2007 to adopt it.

The Standards Board for England would hope that authorities are in a position to adopt the revised Code of Conduct at their annual meeting in May. In order to achieve this, monitoring officers will need to consider the timetable that will need to be followed within their authority both for the adoption of the Code of Conduct and for training for members.

We would also encourage monitoring officers to work with their parish clerks to ensure adoption of the revised Code of Conduct by parish and town councils at an early opportunity. This should help to minimise any confusion that may arise by having two different Codes of Conduct applying within their area.

The Standards Board for England will be responding to the consultation paper and we would encourage other authorities to do so as well.

It is important that the opportunity to have a clear, workable Code of Conduct — one that helps maintain high standards of conduct and supports democratic debate — is not lost.

## The Local Government and Public Involvement in Health Bill

The *Local Government and Public Involvement in Health Bill* fulfils the government's commitment to put a framework in place which allows local standards committees to deal with all aspects of the receipt and determination of allegations that a member has breached the Code of Conduct.

The Bill allows the Standards Board for England to undertake the strategic regulator role that we have always considered should be our primary function. It also responds to the Collins' judgement, making clear the government's view that some aspects of members' conduct that is undertaken in a private capacity should be capable of Code of Conduct regulation.

A brief summary of the main provisions in the Bill relating to standards is provided below.

- Standards committees will be responsible for the receipt of allegations and determining whether they should be investigated. If they are to be investigated, it needs to be decided whether it will be undertaken by the monitoring officer or the Standards Board.
- Standards committees must be chaired by an independent member.
- There will be a duty on standards committees to provide periodic information to the Standards Board about the allegations the standards committee has received and how it has dealt with them.
- The Code of Conduct will cover unlawful actions undertaken at any time.
- The Secretary of State will make regulations for the circumstances in which the Standards Board can suspend a standards committee from deciding whether allegations should be investigated.
- Standards committees will be allowed to undertake joint working for some or all of their responsibilities.
- There will be a general power to allow the creation of sub-committees to deal with any of the functions of a standards committee
- The provisions regarding confidentiality of reports are to be relaxed to allow information to be shared with standards committees.

- A standards committee will be able to refer a report to the Adjudication Panel for England if it considers that the sanctions available to it are insufficient. The sanctions available to the Adjudication Panel for England are also to be widened to include lower level sanctions. This will allow it to deal with any reports that are referred to it.

Once the Bill receives royal assent, the Secretary of State will need to make a range of regulations. This will include the use of the Standards Board's power to suspend standards committees, the operation of joint working arrangements, and the composition of sub-committees.

The Standards Board will produce statutory guidance on a range of issues such as how the assessment of investigations should be undertaken. This will include criteria for referring an allegation for investigation and guidance on joint working arrangements.

## Directions

**Ethical standards officers have been able to issue directions to help resolve local problems since November 2004, when the regulations for local determinations were amended. Since April 2006, 36 directions have been issued.**

Directions can be a more useful way of tackling complaints in cases where problems within a council may be the cause of a councillor's alleged misconduct. In such cases, an ethical standards officer may decide that a direction may be more appropriate than an investigation. At the moment, only an ethical standards officer has power to issue a direction

Once a case has been referred for investigation, the ethical standards officer will try to identify any patterns of conduct or underlying issues that would be more appropriately dealt with by a direction rather than an investigation as soon as possible. If a monitoring officer has already dealt with previous complaints about the council, they will have an insight into whether an investigation will resolve the issues or make them worse.

Examples of where a direction may be more appropriate than an investigation include:

- Multiple allegations concerning members of a parish council (including those not referred for investigation). The concern here is that allegations would continue to be made unless some constructive steps were taken to deal with the cause of the problem.
- Past investigations were ineffective in addressing persistent problems.
- Personal conflict/communication problems between members — tit for tat behaviour.
- An allegation that appears to demonstrate a general lack of understanding of council procedures, or of the requirements of the Code.

The ethical standards officer can direct the monitoring officer to undertake a variety of actions depending on the particular circumstances facing the council, for example:

- Review procedures within the authority to make them more robust.
- Arrange mentoring, guidance or training.
- Arrange mediation between councillors using a facilitator.

Issuing a direction can present its own difficulties, especially at the time when the parties are informed of the proposals. Ethical standards officers often receive an initially negative response to a proposed direction, as the parties involved are often reluctant to consider a direction as a way of resolving disputes. The complainant may want the complaint investigated and the subject member may want to be vindicated.

We will give as much support as possible to a monitoring officer in carrying out a direction. Where it is a parish issue, it is often helpful to obtain the assistance of the local County Association of Local Councils, and to explore what assistance may be available from the standards committee.

If an allegation is already being investigated locally and there are subsequent allegations which indicate a direction may be more appropriate, or if the monitoring officer raises concerns about the impact of an investigation on the council and considers a direction more appropriate, the monitoring officer may ask to refer the case back to the ethical standards officer. This is so that a direction may be considered. Monitoring officers must inform the ethical standards officer about the action they have taken in response to the direction.

The ethical standards officer may, if unhappy with the report, require the monitoring officer to publish a statement giving details of the direction and reasons for failing to implement it. For example, it may be necessary to publicise the fact that a member is reluctant to take part in a process that has been devised to improve the functioning of the council. If the monitoring officer indicates that the aims of the direction have been met, and the ethical standards officer is satisfied that the members have complied with the direction, the matter will be closed.

You can find examples of when directions have been used in the *Case Review* number four, available from our website at [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

### The revised Code of Conduct — acceptance of office

The planned implementation of the revised Code of Conduct later this year has raised the issue of whether members who sign a declaration of acceptance of office when they are elected will have to sign another declaration of acceptance of office when the revised Code is adopted by their authority.

The Standards Board does not believe that this is necessary: Section 52(2) of the *Local Government Act 2000* says that the declaration may include an undertaking by the member to observe the authority's Code of Conduct "for the time being under section 51".

The *Local Elections (Declaration of Acceptance of Office) Order 2001* [SI2001/3941] provides the form of declaration that members must sign when they are elected. This says that:

"I undertake to observe the code as to the conduct which is expected of members of [insert name of authority]."

Both of these provisions appear to refer to being bound by whichever Code is in force at the authority.

Taken together we consider these provisions to mean that the member is bound by whichever Code currently applies at the authority and, therefore, there is no need to sign another declaration when the revised Code is adopted.

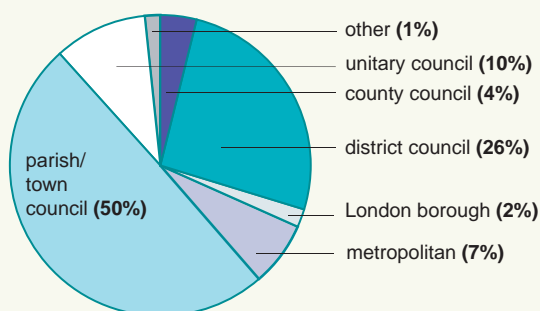


## Referral and investigation statistics

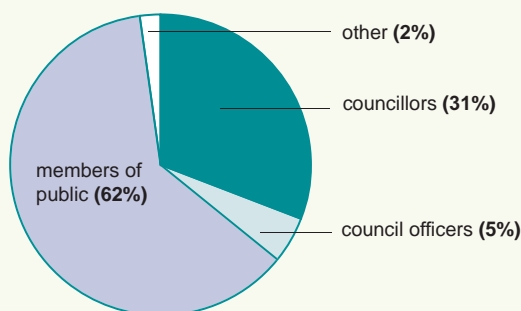
The Standards Board for England received 2,498 allegations between 1 April and 31 December 2006, compared to 2,949 during the same period in 2005.

The following charts show referral and investigation statistics during the above dates in 2006.

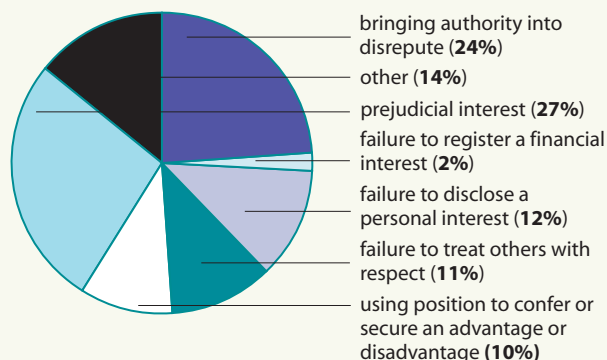
### Authority of subject member in allegations referred for investigation



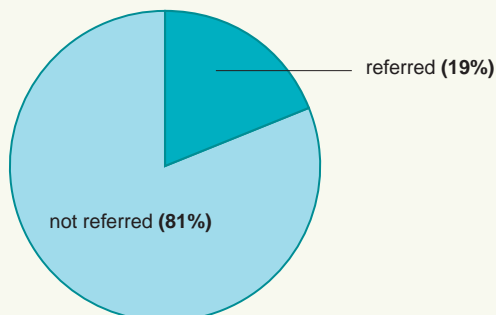
### Source of allegations received



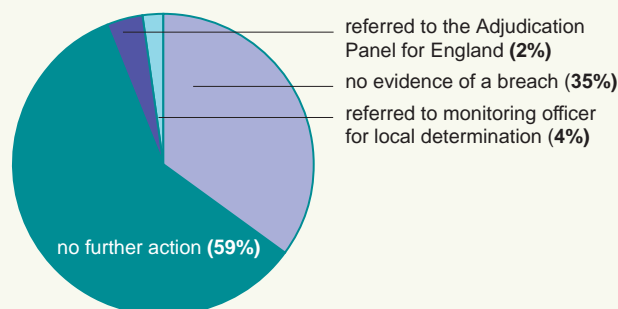
### Nature of allegations referred for investigation



### Allegations referred for investigation



### Final findings



## Annual Assembly 2007

***Down to Detail*** — making local regulation work is the sixth Annual Assembly of Standards Committees, to be held on 15-16 October 2007 at the International Convention Centre in Birmingham.

With the move to a local filter system for complaints fast approaching, the conference will set out how to put this into action and achieve greater consistency and effectiveness in local regulation.

*Down to Detail* will also explore the vital issues raised by the revised Code of Conduct, and will feature practical workshops and plenaries focusing on understanding the key changes.

Conference topics include:

- a step-by-step guide to the local filter process, including new reporting requirements
- managing referrals, investigations, hearings and sanctions
- joint working
- mediation
- an introductory overview of the revised Code
- confident communications
- engaging leaders

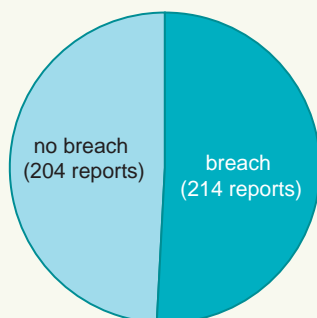
The Annual Assembly is the leading conference on issues concerning standards committees. Booking details will be sent to all authorities in March.

## Local investigation statistics

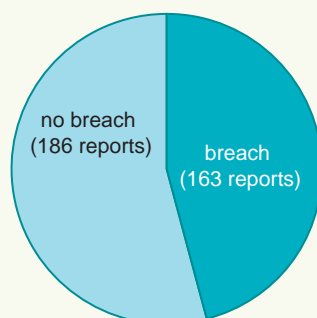
Of all cases referred since November 2004 for local investigation we have received a total of 418 reports — please see below for a statistical breakdown of these cases.

(NB: for the period 1 April — 31 December 2006, ethical standards officers referred 252 cases for local investigation - equivalent to 52% of all cases referred for investigation.)

### Monitoring officers' recommendations following local investigations



### Standards Committee hearings



### Standards committee determinations



## Guidance programme for 2007

In *bulletin 31* we discussed the Standards Board's commitment to producing guidance and training materials to help monitoring officers and standards committees implement the revised Code of Conduct. We are now working on the specific details of our Code guidance programme for 2007.

This will include a new DVD to help local authorities train members. The DVD will explain the revisions to the Code using dramatised scenarios to illustrate particular paragraphs, and we expect to be able to release it soon after the revised Code comes into force.

We are also planning to publish guidance in written form similar to our current range. This will

include a general guide to the revised Code and a detailed guide to the declaration of interest paragraphs. We expect to publish these two publications, along with a simple guide, on our website as soon as the Code comes into force.

The guidance will be available in booklet form soon afterwards and every authority covered by the Code will receive copies.

This year we will also publish a fifth *Case Review*, which will be similar to our *Code Q&A Case Review Volume 1*. This is a paragraph-by-paragraph consideration of the code illustrated by past cases. As such, it will contain specific guidance on the new bullying paragraph expected to be included in the revised Code.

## On the road with the Standards Board

We will be hosting a series of 11 roadshows across the country in June 2007. The focus will be on the revised Code of Conduct and preparing for the proposed introduction of the local filter system for complaints in 2008.

The roadshows will offer an opportunity to discuss any issues that have arisen since the implementation of the revised Code and any concerns about local preparation for dealing with complaints.

As in previous years, the roadshows will take the format of presentations and discussions, and delegates will be encouraged to participate in question and answer sessions. Board members and the chief executive will also be on hand to answer any queries.

Invitations have already been sent out to local authorities as well as the parks, police, transport and fire authorities that are also covered by the Code. The roadshows will be mainly aimed at monitoring officers and members from local standards committees.

Previous roadshows have offered the Standards Board an excellent opportunity to engage with delegates, answer queries, and offer guidance and support. They also offer delegates the chance to network informally with colleagues from the local area.

Dates and venues of the roadshows are:

- **Manchester – 6 June**
- **York – 7 June**
- **Newcastle – 12 June**
- **Nottingham – 13 June**
- **Birmingham – 14 June**
- **Truro – 19 June**
- **Exeter – 20 June**
- **Winchester – 21 June**
- **Swindon – 26 June**
- **Norwich – 27 June**
- **London – 28 June**

For more information please contact our event managers, Benedict Business Resources, on 01483 205432.

## After Livingstone — bringing your office or authority into disrepute

The only sections of the Code of Conduct which apply to a member when not acting in an official capacity are the requirement not to bring the office or authority into disrepute and the requirement not to misuse their position to confer an advantage or disadvantage on yourself or any other person. These also apply "in any other circumstances".

The recent High Court decision in the case of *Livingstone v Adjudication Panel for England* changes the interpretation of what these words mean, making them more restrictive.

The court said that the circumstances are limited to situations when a member is performing his or her functions or purporting to use their status as a councillor.

There appear to be three main principles that need to be present for the behaviour under consideration to amount to a breach of the Code.

- A member must have used or sought to use their status as a member of the council. This is a "using one's position" test.
- The use of the status must be of a type that is capable of amounting to a failure to comply with the Code (for example: behaviour that amounts to treating others with disrespect; bullying; use of confidential information; and so on). This is a breach of Code test.
- The disrepute must attach to the office or the authority and damage it, as opposed to simply damaging the member's reputation. This is a damage to reputation test.

A case tribunal or standards committee will need to be persuaded that the misconduct can damage the reputation of the member's office or authority, not just the reputation of the individual concerned.

Certain kinds of conduct (for example drink driving or petty theft) may damage the reputation of an individual but will rarely be capable of damaging the reputation of the office of councillor or the reputation of the authority.

Establishing when disrepute attaches to the office or council is not easy because the High Court gave no indication of what tests to apply.

Here are some of the possible factors:

- Prejudicing the public interest for private gain (for example a councillor uses their position to obtain confidential information which they then use to secure a personal profit).
- Using or trying to use position or status as a member of the council (for example a councillor is in dispute with a neighbour about their planning application and threatens to speak to contacts who control the planning committee).
- Defying important and well established rules of the authority for private gain.
- Engaging in conduct which directly and

significantly undermines the authority's reputation as a good employer or responsible service provider (for example sexual offences against children committed in a village hall run by the council of which the offender is a member).

What is clear is that each case will need to be dealt with on its merits. The government wants to extend the scope of these provisions and has made proposals to do so in the new *Local Government and Public Involvement in Health Bill*, which is discussed on page 3.

## Seeking volunteers

**The White Paper *Strong and Prosperous Communities* outlines a future ethical framework where local government takes greater responsibility for their ethical environments and the Standards Board has a role as a light touch, strategic regulator.**

We are keen to work with local government to develop the various aspects of our respective new roles.

As such we are looking for volunteers to work with us as pilot sites on the following topics:

- Joint arrangements for standards committees.
- Operating the local filter.
- Developing the Standards Board's monitoring and auditing role (identifying what data to collect, how to collect it and types of intervention).

We are asking volunteers to test and comment on the instruments and approaches we have developed. It is likely to involve the monitoring officer, standards committee members, and possibly other officers such as the chief executive. We will endeavour to ensure that your involvement is not too resource intensive.

The work will initially take place between May and September 2007. If you would like to be involved, then please e-mail [gary.hickey@standardsboard.co.uk](mailto:gary.hickey@standardsboard.co.uk). Please also state which of the pilots you would like to be involved in — you can choose more than one.

If we have a large number of volunteers it is possible that we will not be able to include all those authorities that wish to take part. However, we will respond to everyone that puts themselves forward. If you have any queries then please contact Gary on 0207 378 5087.

## Contacts and more information

Please feel free to let us know any ideas and suggestions you may have for future issues of the *Bulletin*, along with any questions or feedback. Please send comments to:

- [bulletin@standardsboard.co.uk](mailto:bulletin@standardsboard.co.uk)
- The Standards Board for England  
First floor, Cottons Centre  
Cottons Lane  
London SE1 2QG

## More information

You can get more information on the Standards Board for England and the Code of Conduct, including case summaries, frequently asked questions and guidance for members from our website at [www.standardsboard.co.uk](http://www.standardsboard.co.uk)