

Swindon Borough Council

Standards Committee

Monday, 23 July 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)
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AGENDA

PART 1 (PUBLIC ITEMS)

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 - 2)

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>
9	1 and 2

- 6. Anti-Fraud & Corruption Strategy and Whistleblowing Procedure (DLDS-R), (HIA-R) (Pages 3 - 44)**
- 7. Annual Report and Work Programme (DLDS-R) (Pages 45 - 62)**
- 8. Ethical Framework Update (DLDS-R) (Pages 63 - 108)**

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

- 9. Ethical Framework Compliance Update (DLDS-R) (Pages 109 - 110)**

13 July 2007 (being date of agenda despatch)

Key:

- HIA - Head of Internal Audit
- 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, 30 APRIL 2007

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

33. 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.

34. Minutes

Resolved – That the minutes of the meeting of the Standards Committee Hearings Panel held on 23rd March 2007, be confirmed and signed as a correct record.

35. Public Question Time

No public questions were received during the meeting.

36. Adoption of a new Code of Conduct for Members of Swindon Borough Council

The Committee considered a report of the Director of Law and Democratic Services, reporting on the new Model Code of Conduct for Local Authority Members (the Code) and recommending that it be adopted by Swindon Borough Council in place of its existing Code of Conduct, and recommending that Parish Councils within Swindon do likewise.

Resolved – 1) That Council be recommended to adopt the Model Code of Conduct issued by the Secretary of State for Communities and Local Government as set out in the Local Authorities (Model Code of Conduct) Order 2007 [‘the Code’], together with a preamble incorporating the ten general principles governing the conduct of members, in place of its existing Code;

2) That Parish Councils within Swindon be recommended to adopt the Code and preamble before 1st October 2007;

3) That all Members and co-opted Members of Swindon Borough Council be requested to attend the training session on the new Code which has been arranged for members on the 13th June 2007, and all members be encouraged to attend the introductory session on 9th May 2007 which has been arranged as part of the Induction for new members;

4) That it be noted and welcomed that two training sessions on the new Code have been arranged for Parish Councillors on 10th May and 24th May; and

5) That consequential changes to the Council’s existing Codes and Protocols needed as a result of the adoption of the Code be included in the Standards Committee Work Programme for 2007/08, including an amendment to the Member / Officer Protocol to require Members to consult with the Monitoring Officer prior to the disclosure of any confidential information.

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Anti-Fraud & Corruption Strategy and Whistleblowing Procedure

Standards Committee

23 July 2007

Author: Head of Internal Audit; and
Monitoring Officer

Parish / Wards Affected: All

Purpose

To receive the updated Anti-Fraud and Corruption Policy, Whistleblowing Policy, Fraud Response Plan and Fraud Awareness Guide and to approve their implementation

Recommendations

- It is recommended that the Standards Committee approve the adoption of the updated Anti-Fraud and Corruption Policy, the Whistleblowing Policy and the Fraud Response Plan
- It is recommended that the Head of Internal Audit be authorised to roll out the Fraud Awareness Guidance to relevant Members and Officers.

1. Reasons

- 1.1 To ensure that the Council's Policies on Anti-Fraud and Corruption and Whistleblowing are up-to-date and reflect best practice.
- 1.2 To ensure that Members and officers are made aware of how to identify the types of fraud, how it occurs, indicators of potential fraud and how to respond if it is discovered.
- 1.3 The Committee requested at the meeting on 29th January 2007 that the policies be brought back for approval following appropriate consultation with relevant parties. This consultation has now been completed.

2. Detail

- 2.1 The Council controls millions of pounds of public money and takes very seriously the high expectations of the public and the degree of scrutiny to which the affairs of the Council are subject.
- 2.2 In carrying out its functions and responsibilities the Council wishes to promote a culture of openness and fairness and expects that elected members and employees at all levels will adopt the highest standards of propriety and accountability. Proper accountability, achieved through probity, internal control and honest administration is therefore essential.

Further information on the subject of this report can be obtained from Nick Hobbs on 01793 463940 or Email nhobbs@swindon.gov.uk

Anti-Fraud & Corruption Strategy and Whistleblowing Procedure

Standards Committee

23 July 2007

- 2.3 The Anti-Fraud and Corruption Strategy sets out measures designed to frustrate any attempted fraudulent or corrupt acts and the steps to be taken if such action occurs.
- 2.4 The Council's Whistleblowing Policy supports the Anti-Fraud and Corruption Strategy, and makes it clear that concerns can be raised without the fear of reprisals. It is intended to encourage and enable employees, Members and Governors to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.
- 2.5 Both the Anti-Fraud and Corruption Policy (Appendix 1) and the Whistleblowing Policy (Appendix 2) have been updated to ensure that they reflect changes in legislation and reflect best practice.
- 2.6 A Fraud Awareness Guide (Appendix 4) has also been prepared to complement the above documents and to raise manager's awareness of fraud.

Alternative Options

As detailed above there are various providers who are able to provide this external assessment. However, the administration and validation of alternative, particularly any locally approved, providers will also have an impact on Internal Audit resources.

Risk Management

Financial and Procurement Implications

- There are no direct financial or procurement implications. The cost of carrying out any investigations is currently borne by the Director of Law and Democratic Services or Internal Audit's budget.

Legal / Human Rights Implications

- The policies and procedures have been written to take account of the Public Interest Disclosure Act 1998 and takes account of other relevant legislation such as the Regulation of Investigatory Powers Act 2000, the Local Government Act 1972 and the Accounts and Audit Regulations 2003.

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

- The outcome of complaints links with the theme 'Council for the Future' and the wish to improve the Council's performance and ensure that the Council's corporate governance system are considered to be accountable, effective and transparent (Objective 1).

Further information on the subject of this report can be obtained from Nick Hobbs on 01793 463940 or Email nhobbs@swindon.gov.uk

Anti-Fraud & Corruption Strategy and Whistleblowing Procedure

Standards Committee

23 July 2007

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports).
- Group Director Resources
- Director of Human Resources
- Directors Team
- External Audit – both Robson Rhodes RSMi and the Audit Commission

Background Papers and Appendices

- Appendix 1: Anti-Fraud and Corruption Strategy
- Appendix 2: Whistleblowing Policy
- Appendix 3: Fraud Response Plan
- Appendix 4: Fraud Awareness Guide

Further information on the subject of this report can be obtained from Nick Hobbs on 01793 463940 or Email nhobbs@swindon.gov.uk

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SWINDON BOROUGH COUNCIL

ANTI-FRAUD AND CORRUPTION

STRATEGY

Reviewed: JULY 2007



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Appendix 1: Whistleblowing Policy

Appendix 2: Fraud Response Plan

1. Introduction – why we need an anti-fraud and corruption strategy

- 1.1 Swindon Borough Council controls millions of pounds of public money and takes very seriously the high expectations of the public and the degree of scrutiny to which the affairs of the Council are subject.
- 1.2 In carrying out its functions and responsibilities the Council wishes to promote a culture of openness and fairness and expects that elected members and employees at all levels will adopt the highest standards of propriety and accountability. Proper accountability, achieved through probity, internal control and honest administration is therefore essential.
- 1.3 Although the Council has a good reputation for integrity and honesty things may go wrong and, in case they do, we must have procedures for combating fraudulent or improper attempts to obtain assets or services.
- 1.4 The Council needs to maintain constant vigilance in order to safeguard the resources to which we are entrusted and protect our reputation. We must raise awareness, deter and identify fraud and, at the same time, provide mechanisms for employees to raise legitimate concerns when they feel justified. Hence the need for this strategy.
- 1.5 The principle outlined in this strategy apply to Members and all employees of the Council including school based staff and they demonstrate, to the community of Swindon, our commitment to the prevention, detection and investigation of all forms of fraud and corruption wherever it is found.
- 1.6 The Council also expects the same level of commitment from all outside individuals and organisations, including partners and contractors and claimants ensuring that they act towards the Council with honesty and integrity.
- 1.7 This strategy document sets out measures designed to frustrate any attempted fraudulent or corrupt acts and the steps to be taken if such action occurs.

2. What are Fraud and Corruption?

- 2.1 **Fraud** – the Fraud Act 2006 establishes a new general offence of fraud that can be committed in three ways – by false representation, by failing to disclose information and by abuse of position. It also establishes a number of specific offences to assist in the fight against fraud – these include an offence of possessing articles for use in fraud and an offence of making or supplying articles for use in fraud.
 - ***Fraud by false representation:*** a person is in breach of this section if this is done dishonestly and there is intent, by making the representation, to make a gain for himself or another; or to cause or expose the risk of loss to another.
 - ***Fraud by failing to disclose information:*** a person is in breach of this section if he dishonestly fails to disclose to another person information which he

is under a legal duty to disclose; and intends by failing to do so, make a gain for himself or another; or to cause or expose the risk of loss to another.

- ***Fraud by abuse of position:*** a person is in breach of this section if he occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person; dishonestly abuses that position with the intention to make a gain for himself or another; or to cause or expose the risk of loss to another.

2.2 **Corruption** – is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the audited body, its members or officers.

3. Culture

3.1 The culture of the Council is one of openness and the Council is committed to sound corporate governance, and supports the general principles as set out in The Relevant Authorities (General Principles) Order 2001 i.e.

- | | |
|-------------------------|--------------------------|
| • Selflessness | • Personal Judgement |
| • Honesty and Integrity | • Respect for others |
| • Objectivity | • Duty to Uphold the Law |
| • Accountability | • Stewardship |
| • Openness | • Leadership |

3.2 The prevention and detection of fraud and corruption and the protection of the public purse are responsibilities of everyone. The Council's elected members and employees play an important part in creating and maintaining this culture. The Council believes that Staff and Members have the responsibility to prevent and detect fraud and corruption, and are positively encouraged to raise concerns regarding fraud and corruption, in the knowledge that such concerns will, wherever possible, be treated in confidence.

3.3 By establishing a Standards Committee the Council has reinforced this culture. The Standards Committee report to the Council:

- When it considers standards of conduct and behaviour in a particular area need reviewing; and
- When it feels the level of commitment necessary to resolve these difficulties should be greater

3.4 ***Concerns must be raised when members, or employees, reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:***

- ***A criminal offence***
- ***A failure to comply with statutory or legal obligation***
- ***Improper unauthorised use of public or other funds***
- ***A miscarriage of justice***

- ***Maladministration, misconduct or malpractice***
 - ***Endangering of an individuals health and safety***
 - ***Damage to the environment***
 - ***Deliberate concealment of any of the above***
- 3.5 The Council will ensure that any allegations received in any way including by anonymous letters or telephone calls will be taken seriously and investigated in an appropriate manner.
- 3.6 The Council will deal firmly with those who defraud the Council, or are corrupt, or where there has been financial malpractice. There is a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees raising malicious allegations) may be dealt with as a disciplinary manner.
- 3.7 When fraud and corruption has occurred due to a breakdown in the Council's systems or procedures, senior managers will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

4. Key Principles

- 4.1 Leading by example, our Council will:
- Introduce appropriate measures to minimise the risk of fraud
 - Adopt formal procedures to investigate fraud when it is suspected
 - Operate a procedure for employees to voice genuine concerns and protect those who do so
 - Deter employees from making malicious or unfounded allegations
 - Have no hesitation referring cases of suspected financial irregularity to the attention of the Police
 - Liaise on fraud issues with all organisations with whom we are in partnership
 - Work closely with the Police and other appropriate external agencies to combat fraud

5. The role of Elected Members

- 5.1 As elected representatives, all members of the Council have a duty to the Citizens of Swindon, to protect the Council from all forms of abuse. This is reflected through the adoption of this Anti-Fraud and Corruption Strategy and compliance with the Council's Code of Conduct for Members, the Council's Financial Regulations and Standing Orders and relevant legislation.
- 5.2 Elected members undertake to observe the Council's Code of Conduct when they take office. These conduct and ethical matters are specifically brought to the

attention of members during induction and include the declaration and registration of interests. The Director of Law and Democratic Services (the Council's Monitoring Officer) advises members on the ethical framework and of new legislative or procedural requirements.

- 5.3 The Standards Committee approves and monitors the anti-fraud strategy and whistleblowing procedure for the Council and ensures that it operates effectively.
- 5.4 The Director of Law and Democratic Services and the Head of Internal Audit will consult with the Chair of Standards Committee on all investigations that are being carried out under the Anti-Fraud Strategy and Whistleblowing procedures. The Chair of Standards Committee will be kept informed on the progress of all investigations.

6. The role of employees

- 6.1 The work of employees' is governed by the Council's Standing Orders and Financial Regulations and other Codes of Conduct (i.e. Health and Safety and IT Security). They are also governed by the Council's Code of Conduct for Employees. The Code of Conduct includes guidelines on Gifts and Hospitality and conflicts of interest. These matters will be included in induction training and procedure manuals.
- 6.2 Employees are expected to always be aware of the possibility that fraud, corruption and theft may exist and be able to share their concerns with management. If for any reason they feel unable to speak to their manager they must refer the matter to one of those named below:
- Heads of Service, Directors, Group Directors, the Chief Executive, the Council's Monitoring Officer or members of the Standards Committee, who will report such concerns to the Head of Internal Audit.
 - Directly to the Head of Internal Audit
 - The Council's External Auditor, who depending upon the nature of the concern will liaise with the Head of Internal Audit
- 6.3 Concerns can also be raised anonymously (letter or telephone) or via other routes such as the Council's Whistleblowing Policy (see Appendix 1).
- 6.4 The Council has to comply with legislation relating to money laundering. Guidance has been prepared regarding this and is available from the Director of Finance.

7. The role of Managers

- 7.1 Managers at all levels are responsible for the communication and implementation of this strategy in their work area. They are also responsible for ensuring that their employees are aware of:
- Standing Orders
 - Codes of Conduct

- Financial Regulations
- Anti-Fraud and Corruption Strategy
- Whistleblowing Procedure
- Scheme of Delegation
- Complaints and Disciplinary Procedures
- Service specific procedure manuals

- 7.2 Managers determine the extent of internal control in their systems and are responsible for providing an environment that ensures that resources are properly applied, value for money is secured, fraud and other losses prevented, and the Council Financial Regulations and other policies complied with.
- 7.3 Probity issues should be afforded a very high profile in employee induction and training processes and all new members of staff should be made aware of the Anti-Fraud and Corruption Strategy via their induction.
- 7.4 Managers should ensure that audit recommendations are implemented promptly.
- 7.5 Information provided to Managers by Internal Audit regarding frauds committed elsewhere via the Fraud Bulletins should be carefully considered. Managers should consider whether their procedures are sufficiently secure to prevent a similar occurrence within our Council?
- 7.6 Frauds are most commonly discovered through the diligence of employees, service users and the public. They will expect their concerns to be treated in confidence and taken seriously. The Council encourages the reporting of suspicions and will protect those who do so (even if the suspicions are unfounded but made with good intent).
- 7.7 Further guidance on how to react as a Manager if you suspect a fraud, or suspicions are brought to your attention are included in the Fraud Response Plan (attached as Appendix 2).

8. Conflicts of Interest

- 8.1 Both elected members and employees must ensure that they avoid situations where they avoid situations where there is potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

9. The role of Internal Audit

- 9.1 The role of the Internal Audit is to deliver an opinion to the Audit Committee, the Chief Executive, Leader of the Council and the Section 151 Officer, on the Council's risk management, control and governance arrangements.

- 9.2 In relation to fraud this responsibility includes examination of the adequacy of arrangements for managing the risk of fraud and ensuring that the Council actively promotes an anti-fraud culture, and that all employees are aware of the Council's anti-fraud policy and of their responsibilities in relation to combating fraud.
- 9.3 In addition, Internal Audit assists in deterring fraud by examining and evaluating the effectiveness of control, commensurate with the risk, throughout the Council's operations. This includes ensuring that management has reviewed its risk exposure, identified and mitigated against the possibility of fraud as a business risk. As part of this Internal Audit will undertake an annual programme of proactive fraud testing.
- 9.4 Internal Audit will investigate all employee cases of suspected financial irregularity, fraud or corruption, except Benefits Fraud investigations (see point 11 below) in accordance with agreed procedures and relevant legislation i.e. Regulation of Investigatory Powers Act 2000 (RIPA).
- 9.5 Internal Audit is responsible for following up any allegation of fraud or corruption received and does so through clearly defined procedures and standards:
- Dealing with the matter promptly
 - Recording all evidence received, ensuring that it is sound and adequately supported
 - Consulting with the Police as appropriate
 - Notifying relevant officers i.e. Director/Group Director, Monitoring Officer, Section 151 Officer and Chief Executive where appropriate
 - Assisting the relevant Director and Director of Human Resources in implementing any disciplinary procedures where appropriate
 - Ensuring that appropriate action is taken to minimize the risk of similar frauds occurring in the future

10. The role of the Benefit Investigation Team

- 10.1 The Benefits Investigation team is responsible for all Benefit Fraud investigations. The team report to the Director of Revenues and Benefits. In cases where employees of the Council may be suspected of an irregularity, the Benefits Investigation team will work with Internal Audit, Human Resources and appropriate senior management to ensure that correct procedures are followed and that this policy is adhered to.

11. The role of External Audit

- 11.1 External Audit has an essential role to play in relation to the stewardship of public money. The role is delivered through the carrying out of specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems, and arrangements for preventing and detecting fraud and corruption.

- 11.2 It is not the external auditor's function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. The external auditor has a responsibility to review the Council's arrangements for preventing and detecting fraud and irregularities, and arrangements designed to limit the opportunity for corrupt practices.

12. Measures to minimise the risk of fraud

- 12.1 In order to maintain high standards, procedures and controls have been established, providing an environment that will minimise the opportunity for fraud. Key documents that support the Council's commitment against fraud are published on the intranet. Important anti fraud procedures include:
- Financial Regulations
 - Codes of Conduct for Members and Employees
 - Disciplinary Procedures
 - Council's Complaints Procedure
 - Whistleblowing Procedure
 - Managers' Guide: responding to fraud
 - Membership of National Anti-Fraud Initiatives, including the Housing Benefit Matching Service
 - Money Laundering Guidance
 - Standing Orders Relating to Contracts
 - Information Technology Security Policy
 - The Royal Mail's service to return re-directed benefit mail
 - A Prosecution Policy (Benefits)
 - The Security Manual in relation to Housing Benefit claims
 - Scheme for the Financing of Schools
 - Departmental Guidance and Procedure Notes
- 12.2 These documents and procedures help us to conduct the Council's business in a manner beyond reproach. They establish the rules to which we must adhere and are supported as necessary, by detailed procedure manuals that have been prepared for the key functions of the Council.
- 12.3 Staff and members are expected to comply with any statutory obligations about disclosure, conflicts of interest, pecuniary interests, gifts and hospitality received and offered but refused.
- 12.4 The Council operates rigorous recruitment processes that include the verification of references and the completion of CRB checks for staff who have contact with children or vulnerable adults, prior to them taking up appointment.
- 12.5 It is the responsibility of Directors and Managers (Head teachers and Governors in schools) to operate internal systems to ensure these standards are applied and bring these systems to the attention of their employees. Procedures are operated throughout the Council to ensure:
- An adequate separation in duties (more than one employee involved in key tasks)
 - Proper authorisation procedures (transactions must be approved)

- Independent monitoring and checking of data and documentation (checks and balances)
- 12.6 The Council has a rigorous internal and external audit process that monitors compliance with internal regulations and undertakes a rolling programme of checks to detect, deter and prevent fraud and corruption. However, it is for managers to determine the extent of internal control in their systems and they are responsible for providing an environment that ensures that resources are properly applied, value for money is secured, fraud and other losses prevented, and the Council's Financial Regulations are complied with.

13. How the Council aims to deter Fraud

13.1 Housing and Council Tax Benefit Administration

- The Benefits Service operates within the Government's policies and guidelines and the National Performance Standards Framework, which aims to improve the quality and accuracy of benefit determinations and both prevent and reduce the incident of fraud.
- To support this policy the Council has a Benefit Fraud Prosecution Policy. The policy encompasses all those in receipt of Benefits, be they the public, elected members, contractors or employees. It is designed to clarify the Council's action in specific cases and to deter others from committing offences against the Authority.

13.2 Prosecution

- In cases of fraud and corruption, where there is evidence to suggest that a criminal offence has been committed, it is the responsibility of the Head of Internal Audit to submit the case to the Police for investigation and prosecution as appropriate.

13.3 Disciplinary Action

- Theft, fraud and corruption are serious offences against the Council and will be regarded as gross misconduct. Employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit Fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each case and the advice of the Police, but will be in a consistent manner.

13.4 Publicity

- The Council's Communications team will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. They will also try and ensure that the results of any action taken, including prosecutions, are reported to the press.
- In all cases where financial loss has occurred the Council will seek to recover any loss and consider making the public aware of this through the media.

- All anti-fraud and corruption activities, including the review of this policy; the issue of Fraud Bulletins and Warnings, will be publicised to make employees and the public aware of the Council's commitment to taking action on fraud and corruption, when it occurs.
- Regular reports by the Monitoring Officer and Head of Internal Audit will be made to Standards Committee with respect to countering fraud and corruption activities and their successes.

14. Detection and Investigation

- 14.1 There are numerous system controls in place to deter fraud and corruption but it is often the vigilance of employees and members of the public that aids detection.
- 14.2 Internal Audit plays an important role in the detection of fraud and corruption. Included in their annual plan are reviews of system financial controls and specific fraud and corruption tests, spot checks etc.
- 14.3 All suspected irregularities should be reported to the Head of Internal Audit. This is essential to the strategy and:
- Ensures the consistent treatment of information regarding fraud and corruption; and
 - Facilitates a proper and thorough investigation by an experienced audit team.
- 14.4 This process will apply to allegations relating to all the following areas:
- Fraud/corruption by elected members
 - Internal fraud
 - Other fraud by Council employees acting in a personal capacity
 - Fraud by contractors employees
 - External fraud (the public)
- In practice cases may be referred directly to the External Auditor or Police by complainants. The Council may also consider passing on such allegations to the External Auditor or the Police if considered appropriate.
- 14.5 Depending on the allegation, the Head of Internal Audit will normally work closely with the appropriate senior manager concerned to ensure that all allegations are thoroughly investigated and reported upon. A Fraud Response Plan has been developed by Internal Audit to assist in this process (see Appendix 2).
- 14.6 Any decision to refer a matter to the Police will be taken by the Head of Internal Audit in consultation with the Director of Finance, Chief Executive, Monitoring Officer and relevant Group Director/Director as appropriate.

15. Awareness and Training

- 15.1 The Council recognises that the continuing success of this strategy and its general credibility will depend in part on the effectiveness of training and awareness on the part of elected members and employees. To facilitate this, positive and appropriate provision will be made through induction training and specialist training for certain elected members and employees.
- 15.2 In addition, Internal Audit will circulate Fraud Bulletins and warnings to all members and staff. The Director of Finance; the Monitoring Officer and Head of Internal Audit will also provide relevant training.

16. Monitoring

- 16.1 The Standards Committee will monitor the Anti-Fraud and Corruption Strategy and Whistleblowing procedure for the Council and ensure that it operates effectively. The Head of Internal Audit and the Monitoring Officer in consultation with the Chair of Standards Committee will ensure that any corrective actions identified from investigations are brought to the attention of the Committee.

17. Conclusion

- 17.1 The Council has in place a network of systems and procedures to assist it in dealing with fraud and corruption when it occurs. It is determined that these arrangements will keep pace with any future developments in both prevention and detection techniques, regarding fraudulent or corrupt activity.

SWINDON BOROUGH COUNCIL

DISCLOSURE (‘WHISTLEBLOWING’) POLICY

Reviewed: JANUARY 2007



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1. Introduction

- 1.1 Employees, Members and School Governors are often the first to realise that there may be something seriously wrong within the Council. However, they may not express concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff can do so without fear of reprisals. This Disclosure Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside.
- 1.3 This Disclosure Policy has been devised in accordance with the provisions of the Public Interest Disclosure Act 1998 and seeks to bring into the open concerns of the staff and public relating to issues concerning dishonesty involving the Council.
- 1.4 This policy supports the Council's Anti Fraud and Corruption Policy, and makes it clear that concerns can be raised without fear of reprisals. It is intended to encourage and enable employees, Members and Governors to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.

2. Aims and Scope of the Policy

- 2.1 This policy aims to:
- Provide avenues for staff to raise concerns and receive feedback on any action taken;
 - Allow staff to take the matter further if they are dissatisfied with the Council's response; and
 - Reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.
- 2.2 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This Disclosure Policy is intended to cover concerns that fall outside the scope of that procedure.

2.3 That concern may be about something that:

- Is unlawful, or
- Is contrary to the Council's Standing Orders or policies, or
- Falls below established standards or practice; or
- Amounts to improper conduct

For example (this list is not exhaustive):

- Malpractice or ill treatment of a client/customer
- A criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud
- Disregard for legislation, particularly in relation to health and safety at work
- Breach of Financial Regulations, Standing Orders
- Showing undue favour over a contractual matter or to a job applicant
- A breach of any code of conduct or protocol
- Information on any of the above has been, is being, or is likely to be concealed.

2.4 The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

3. Safeguards

Harassment or Victimisation

- 3.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. The Council will treat any harassment or victimisation as a serious disciplinary offence to be dealt with under the Disciplinary Procedure.
- 3.2 This does not mean that if staff are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their whistleblowing.

Confidentiality

- 3.3 The Council will do its best to protect a staff member's identity when they raise a concern and do not want their name to be disclosed. It must be appreciated that the

investigation process may reveal the source of the information and a statement by staff may be required as part of the evidence.

Anonymous Allegations

- 3.4 This policy encourages staff to put their name to their allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.
- 3.5 In exercising the discretion, the factors to be taken into account would include the:
- seriousness of the issues raised;
 - credibility of the concern; and
 - likelihood of confirming the allegation from an attributable source.

Untrue Allegations

- 3.6 If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, staff make malicious or vexatious allegations, disciplinary action may be taken against them.

4. How to raise a concern

- 4.1 Employees who raise concerns that fall within the scope of other Council procedures will not be dealt with in this procedure, but will be advised on the appropriate procedure to use. Such employees will still receive protection as detailed in this policy.
- 4.2 As a first step, staff should normally raise concerns with their immediate manager or supervisor. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If in doubt, contact the Chief Executive, or the Director of Law and Democratic Services (the Council's Monitoring Officer), or the Head of Internal Audit.
- 4.3 Alternatively, staff can leave a message on the 24-hour Whistleblowing answer phone and fax service (telephone number 01793 464603). The phone and fax are located in a secure area. This service is strictly confidential and callers will not be asked to give their name if they do not want to.
- 4.3 Concerns are better raised in writing. Staff are invited to set out the background and history of their concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation. If staff do not feel able to put their concern in writing, they can telephone or meet the appropriate officer. The earlier staff express the concern, the easier it is to take action.

- 4.4 Although staff are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.
- 4.5 Advice and guidance on matters of concern may be pursued and can be obtained from:
- Chief Executive
 - Group Directors / Directors
 - Director of Law and Democratic Services (Monitoring Officer)
 - Director of Finance
 - Head of Internal Audit
 - any of those listed in paragraph 6.1 below
- 4.6 Staff may invite a trade union representative or work colleague to raise a matter on their behalf.

5. How the Council will respond

- 5.1 The action taken by the Council will depend on the nature of the concern and may:
- be resolved by agreed action without the need for investigation
 - be investigated internally
 - be referred to the Police;
 - be referred to the external auditor;
 - form the subject of an independent inquiry
- 5.2 In order to protect individuals and the Council, initial enquiries will be forwarded to the Monitoring Officer who will consult with the Head of Internal Audit and the Chair of Standards Committee and decide whether an investigation is appropriate and, if so, what form it should take. The Monitoring Officer can decide to take no further action if a complaint appears to be trivial or vexatious. All such decisions will be reported to the next meeting of Standards Committee. Concerns or allegations that fall within the scope of specific procedures, for example discrimination issues, will normally be referred for consideration under those procedures.
- 5.3 Some concerns may be resolved by agreed action without the need for investigation and staff will be involved in those discussions. The Monitoring Officer shall report periodically thereon to the Standards Committee.
- 5.4 If an investigation is required, the Monitoring Officer will consult with the Head of Internal Audit and the Chair of Standards Committee and designate an appropriate officer to investigate the concern. Following this that officer will, within ten working days, write to the member of staff:

- Acknowledging that an investigation will be carried out
 - Indicating how he/she proposes to deal with the matter
 - Giving an estimate of how long it will take to provide a final response
 - Telling them whether any initial enquiries have been made
 - Telling them whether further investigations will take place, and if not, why not
 - Advising them that any investigation will be carried out in the strictest confidence; and
 - Keeping them informed of the progress of the investigation.
- 5.5 The amount of contact between the officers considering the issues and the staff member will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from staff.
- 5.6 When any meeting is arranged, staff have the right, if they so wish, to be accompanied by a union representative or work colleague who is not involved in the area of work to which the concern relates.
- 5.7 The Council will take steps to minimise any difficulties that staff may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.
- 5.8 The Monitoring Officer will report on the outcome of any investigation to the Standards Committee who will monitor the implementation of the recommendation of the investigation.

6. How the matter can be taken further

- 6.1 This policy is intended to provide staff with an avenue to raise concerns **within** the Council. The Council hopes staff will be satisfied. If they are not, and feel that it is right to take the matter outside the Council, the following are possible contact points:
- Local Council member (if staff member lives in the area of the Council)
 - Chair or any member of the Standards Committee
 - The External Auditor
 - Relevant professional bodies or regulatory organisations
 - Solicitor
 - The Police
 - An independent person or organisation nominated for the purpose by the Council

- Public Concern at Work. If staff do take this matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. Staff should check with the contact point about that.

7. The Monitoring Officer

- 7.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy, and he will liaise as necessary with the Head of Internal Audit and Chair of Standards Committee.
- 7.2 The Monitoring Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger staff confidentiality) and will report as necessary to the Standards Committee.

8. The Law

- 8.1 This policy and procedure has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions.
- 8.2 The Act is incorporated into the Employments Rights Act 1996, which also already protects employees who take action over, or raise concerns about health and safety at work. For the avoidance of doubt, financial issues are covered by Section 151 Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, The Local Government and Housing Act 1989, and Accounts and Audit Regulations 2003.

SWINDON BOROUGH COUNCIL

FRAUD RESPONSE PLAN



PREPARED BY: Nick Hobbs
Head of Internal Audit

DATE: July 2007

VERSION: 2.1

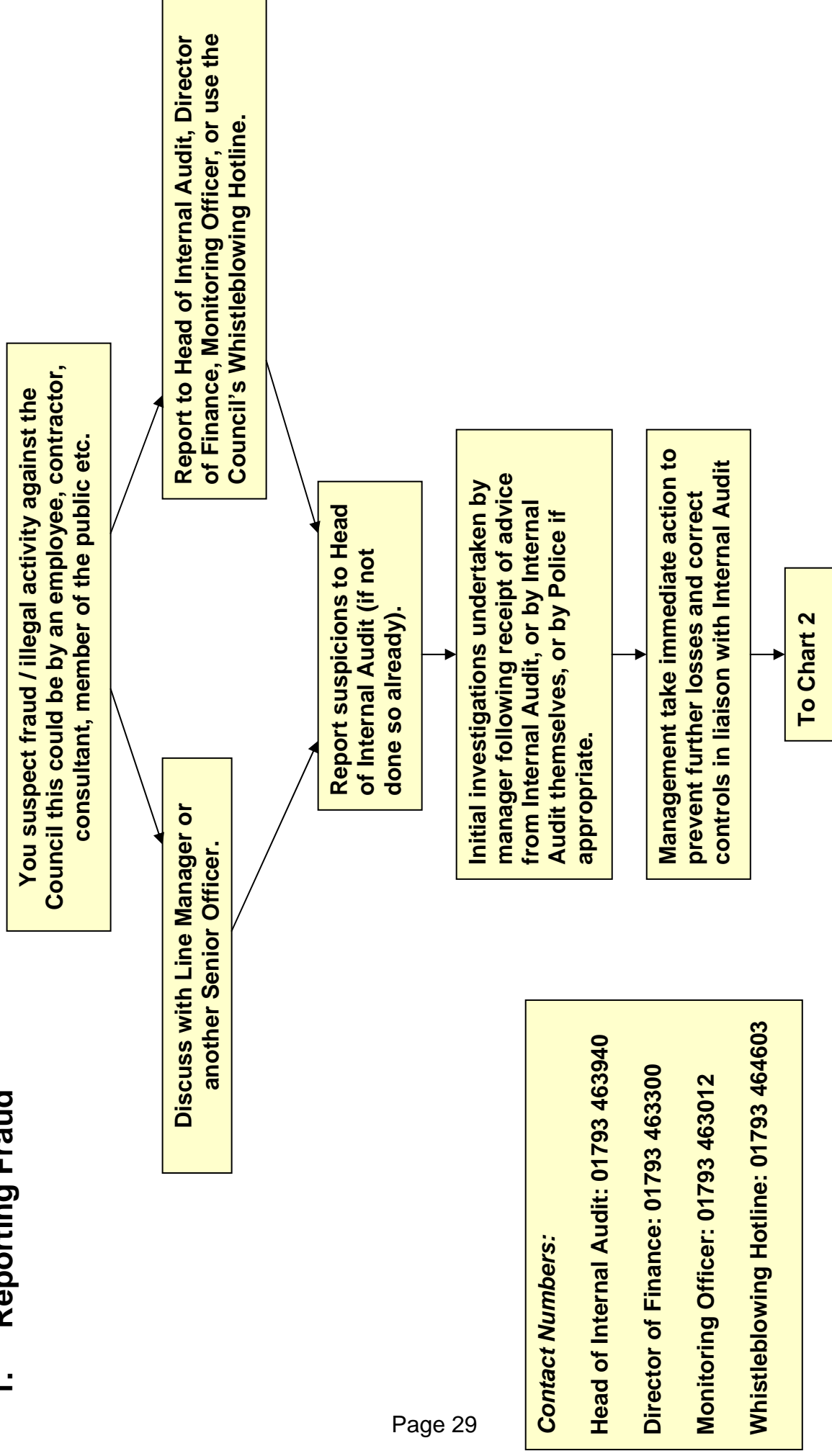
1. Introduction

- 1.1 The Council is committed to protecting the public funds with which it has been entrusted. Minimising the losses to fraud and corruption is an essential part of ensuring that all of the Council's resources are used for the purpose for which they are intended, namely the provision of high quality services to the citizens of the borough. The Council has a range of policies and procedures that facilitate this process and form equally important parts of the Council's overall strategy. These include the Anti-Fraud and Corruption Strategy, the Whistleblowing Policy and the Surveillance Policy (RIPA).
- 1.2 This document is intended to provide direction and help to officers and members in reporting and reacting with suspected cases of theft, fraud and corruption. It also gives direction to others wanting to report matters of concern in these areas.
- 1.3 ***The two flowcharts (Chart 1 and Chart 2) on Pages 3 and 4 give a brief overview as to how an allegation should be dealt with.***

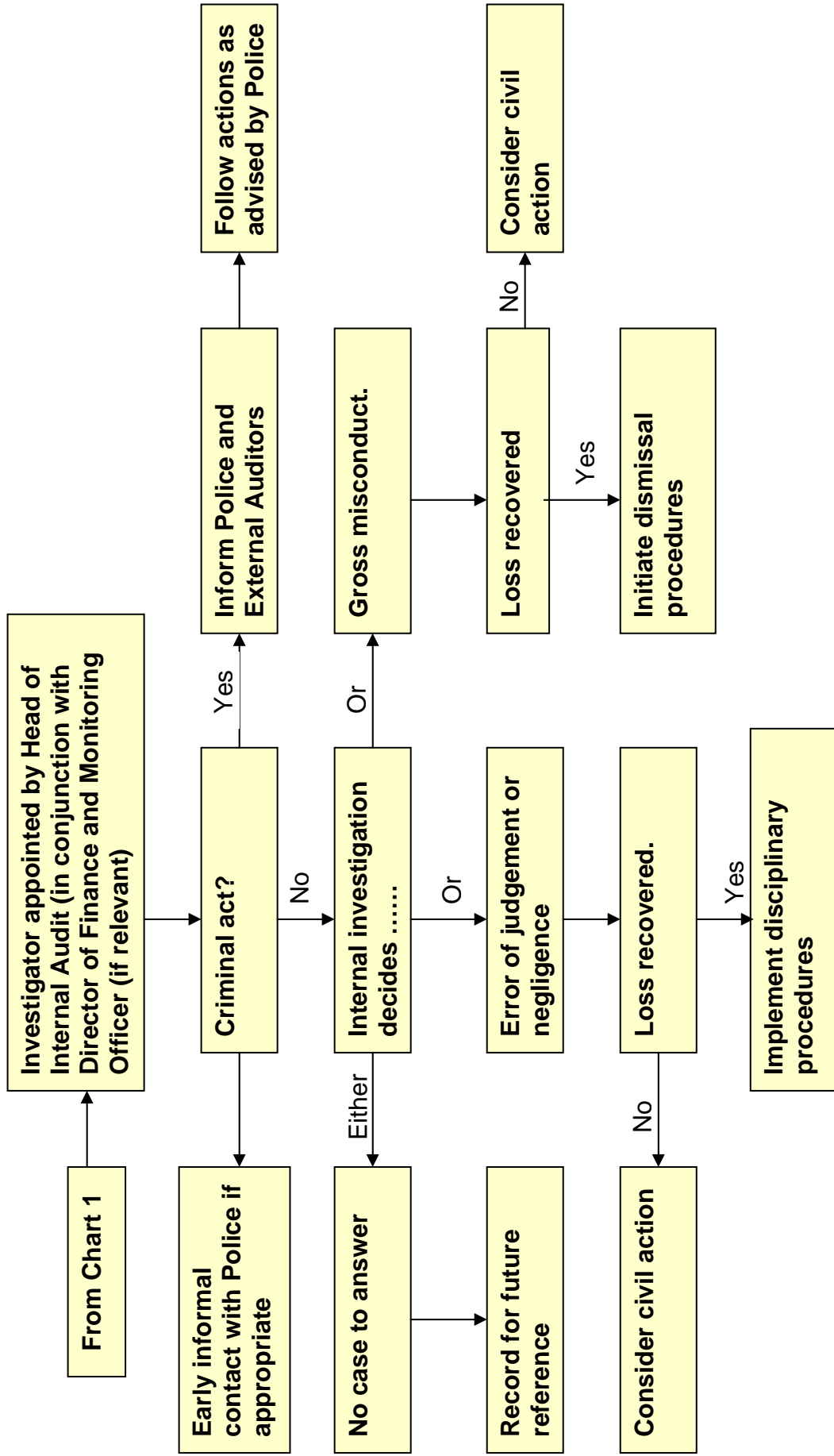
2. Scope of Response Plan

- 2.1 The scope of this response plan is not limited to fraud and corruption but is applicable to any suspected act of financial impropriety. This includes any act that puts the Council's resources at risk.
- 2.2 The exception to this are the arrangements for reporting Housing Benefit Fraud, which is dealt with in the Council's "Reporting Fraud" document for Housing Benefit claims. The Council's in-house Benefit Fraud Team investigates these frauds.
- 2.3 Definitions of what constitutes a fraud can be found in the Anti-Fraud and Corruption Strategy on page fraud

1. Reporting Fraud



2. Conducting the Investigation



3. Reporting Suspicions

If fraud or corruption is suspected, then the matter should be reported without delay. Officers should report to a line manager at the outset and retain all evidence. If it is thought that the line manager may be involved, or that there may be a conflict of interest, the matter should be reported directly to a more senior officer, or to the:

- Head of Internal Audit
- Director of Finance
- Monitoring Officer (Director of Law and Democratic Services)

Employees may raise their concerns verbally, or preferably in writing, to ensure allegations are reflected accurately to those conducting investigations.

Employees who make a written allegation should ensure their account includes the background, history and nature of their concern (including names and relevant dates and locations, where applicable) and the reason why they are particularly concerned about the situation.

Internal Audit also provides a 24-hour Whistleblowing hotline that employees can use to report their concerns (telephone number 01793 464603). Messages left are treated as strictly confidential and are only accessed by authorised Internal Audit staff.

Employees can leave their personal details when calling the hotline or make the allegations anonymously. It should be noted that it is considerably more difficult to investigate anonymous allegations.

Alternatively contact can be made by writing to the Head of Internal Audit, Civic Offices, Euclid Street, Swindon. SN1 2JH or e-mail at nhobbs@swindon.gov.uk

If in doubt, Public Concern at Work (www.pcaw.co.uk) will give free and totally independent advice on how to proceed (contact helpline@pcaw.co.uk or telephone 020 7404 6609).

If suspicions have been reported through the Whistleblowing Policy they will be reported to the Council's Monitoring Officer who, in liaison with the Head of Internal Audit and Chair of Standards Committee, will appoint an appropriate investigating officer (for more details see the Whistleblowing Policy which is available on the Intranet – under the A-Z list of services (under 'W')).

4. Investigation

Managers & Supervisors:

As soon as an officer reports fraud or corruption, the manager or supervisor should, in all instances, seek advice from Internal Audit.

The Manager should:

- Obtain a written record of the concerns from the person making the allegations, or in cases where they have discovered the potential fraud, prepare a written report themselves. This should include:
 - Background details and nature of the suspicions (including relevant names, dates and locations).
 - Details of the job and areas of responsibility of the individuals implicated.
 - Why the person raising the matter is concerned.
 - Action taken to date.
 - A description of the systems, controls and procedures that should be operating within the area subject to abuse.
- Contact the Head of Internal Audit as soon as possible to discuss the seriousness and factual basis of the allegations and the next steps to be taken.
- Take care, at this stage, to ensure that the suspect(s) are not alerted to the potential investigation and the confidentiality of informants is not compromised.
- Under no circumstances take any action to investigate the allegations themselves, or allow employees to do so, without sanction or guidance from Internal Audit. This includes interviewing, or observation, of suspects in connection with the suspected act. This is to ensure that evidence is collected in a way that complies with relevant legislation and does not compromise the investigation and/or subsequent disciplinary procedures/prosecutions.

Internal Audit:

Once an allegation has been made and an investigation deemed necessary it is likely that Internal Audit will either conduct the investigation or be involved in some way.

The purpose of the audit investigation is to establish the facts in an equitable and objective manner. The process will involve the use of authority or delegated powers to:

- screen allegations, or information, to gauge their credibility;
- secure all evidence;
- interview suspects;
- interview witnesses;
- take statements;
- liaise with departments, or other agencies (including the Police).

Where evidence of offences or irregularities is found, the Council will take suitable further action. The investigating officer will compile a report of their findings for submission to the department concerned detailing their recommendations regarding disciplinary action or referring to the Police (see below).

5. Establishing and Securing Evidence

In order to initiate disciplinary/criminal proceedings against a suspect of financial misconduct it is essential that evidence be secured in a legally admissible form, without alerting suspects at the outset of the investigation.

As such, managers and staff should not attempt to collect any form of evidence (e.g. records, statements or surveillance evidence) without sanction from Internal Audit, who will be responsible for co-ordinating the collection of evidence as part of any internal investigation. Any IT equipment that may hold evidence should be secured without being accessed by anyone.

Staff collecting evidence (whether audit staff or otherwise) should ensure it is stored securely at all times and is not tampered with, that no marks are made on original documents and a record is kept of anyone handling evidence. The Data Protection Act should be complied with at all times.

Staff responsible for interviewing suspect(s) should be trained in the requirements of the Police and Criminal Evidence Act 1984. Failure to comply with PACE requirements in interviews will mean that nothing said by the suspect will be admissible in a court of law.

Staff responsible for commissioning and carrying out surveillance of suspects should do so in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Council's Policy and Protocol on Surveillance. Failure to comply with RIPA will make all surveillance evidence inadmissible in court and may leave the Council liable to court action. The Council's Monitoring Officer or Head of Internal Audit can provide advice in the requirements of RIPA.

6. Police Referral Procedures

The decision to refer a matter to the Police will only be taken by the Head of Internal Audit, in consultation with the Director of Finance, the appropriate Head of Service and the Director of Law and Democratic Services and where appropriate the Chief Executive. In such cases the Head of Internal Audit will instigate contact with the Police.

The Head of Internal Audit shall handle all requests from the Police for additional evidence, statements or any other form of assistance.

7. Prevention of Further Losses

When a suspected fraud is reported the Head of Internal Audit will liaise with the Head of Service and appropriate Human Resources Manager to determine the most appropriate course of action to prevent any further losses to the Authority being incurred.

This may require the suspension of the suspected individual(s) concerned. The normal circumstances for suspension would be:

- Where the continued employment of the individual(s) could lead to further losses.
- Where the continued employment of the individual(s) could jeopardise the investigation (where the individuals could destroy or remove evidence).
- Where the Police have charged the officer with a criminal offence relating to the Council.

All suspensions will be carried out in line with the Standards of Conduct and Disciplinary Procedure. Suspension does not constitute disciplinary action.

Any security passes and keys to Council property should be obtained from the suspect(s) along with other Council owned items (such as laptops), and returned to the appropriate officer or kept securely pending investigation. The appropriate Systems Administrators should be contacted to disable access to all relevant IT systems.

To prevent further losses and where it will not prejudice any subsequent investigation, management should liaise with Internal Audit to remedy any identified control weaknesses that have permitted the act of financial impropriety to be undertaken.

8. Recovery of Losses

Managers should seek to recover any losses incurred through acts of financial impropriety from the offenders concerned. Management should consult the Director of Law and Democratic Services to establish the options available to recover losses.

Where substantial potential losses have been identified at the outset of an investigation, management should seek legal advice immediately from the Director of Law and Democratic Services regarding the need to freeze the suspect's assets through the Court, pending conclusion of the investigation.

9. Publicity and Dealing with the Media in Connection with Suspected or Proven Fraud

Any public statements regarding pending, current or completed investigations or allegations of financial impropriety should only be made through the Communications team, by contacting the Director of Partnership, Policy and Communications.

Officers, Members and third parties of the Council should not make any public statement regarding suspected financial impropriety in order to avoid making libellous statements, or statements that may prejudice investigations, or any subsequent disciplinary/legal action. All such statements will be co-ordinated by

the Communications team. If contacted by the public or the press, SBC personnel (including members and third parties) should refer those making the enquiry to the Director of Partnership, Policy and Communications.

The Director of Partnership, Policy and Communications should optimise the publicity opportunities available to make employees and the public aware of the Council's commitment to taking action on acts of financial impropriety. As such any action taken relating to acts of financial impropriety should be reported in the press, as a deterrent to other potential offenders.

10. Roles and Responsibilities (who does what)

Director of Finance: has overall responsibility for the Council's response to fraud and to oversee the action taken to investigate.

Head of Internal Audit: has responsibility for investigation of fraud and advising on action to be taken.

Directors: have responsibility for establishing and maintaining adequate system controls within their directorates, including responsibility for prevention and detection of fraud and ensuring staff awareness.

Monitoring Officer (Director of Law and Democratic Services): has responsibility for operation of the Council's Whistleblowing Policy.

Managers and supervisors: have responsibility for the prevention and detection of fraud and corruption within their work area and for swiftly reporting allegations brought to them (see Reporting Suspicions, section 3 of this Appendix).

Investigating Officers (usually a member of the Internal Audit team)
Have responsibility for investigating matters of suspected fraud or corruption complying with relevant legislation and best practice/guidance.

Employees: are required to act in accordance with the Staff Code of Conduct to report all actual or suspected cases of financial impropriety.

External Contractors/Third Parties: should immediately contact the relevant service manager, or any of the personnel listed in section 3 of this Appendix, with concerns they have whilst working within the Council.

Council Members: are required to act in accordance with the Members Code of Conduct and should report any suspected, or detected, acts of financial impropriety immediately to the Monitoring Officer, Head of Internal Audit, Director of Finance or Chief Executive.

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Swindon Borough Council

Swindon Internal Audit Services

FRAUD AWARENESS

A GUIDE FOR MANAGERS

July 2007



1. Why you should read this?

All organisations are at risk of, or affected by, fraudulent or corrupt activity. As managers you have a key role to play in deterring and tackling such abuse, as this guide explains. Apart from costing taxpayers millions of pounds each year, the reasons you should not ignore fraud and corruption are that it can:

- demoralise you and your colleagues
- strengthen bullies and incompetents
- encourage others to behave in the same way
- divert resources from those who need it
- undermine public and political confidence in public services

The Council has formal policies and procedures in place to respond to suspected fraud: The Anti-Fraud and Corruption Strategy contains guidance on how to react to suspected fraud and corruption and it details procedural steps to be taken when investigating suspected fraud.

As a manager, you should ensure that all your staff know how to raise concerns about fraud. You can obtain a copy of the Anti-Fraud and Corruption Strategy on the intranet (look under the A of the A-Z of services).

The purpose of this guide is to outline the Council's commitment to the protection of public funds and the necessity for harnessing resources in order to minimise losses arising from fraudulent conduct. The guide concentrates on:

- the identification of the types of fraud
- how fraud occurs
- examples of behaviour that might indicate fraud
- indicators of potential fraud in a system
- advice to management and staff re: fraud and corruption
- the reporting of conduct that may be fraudulent

The Financial Regulations do not attempt to provide a detailed approach to fraud investigation, but do make employees of the Council aware of what is expected of them, their codes of conduct and how fraud can be identified and reported.

2. What is Fraud?

Fraud

The Fraud Act 2006 establishes a new general offence of fraud that can be committed in three ways – by false representation, by failing to disclose information and by abuse of position. It also establishes a number of specific offences to assist in the fight against fraud – these include an offence of possessing articles for use in fraud and an offence of making or supplying articles for use in fraud.

Theft

Dishonestly appropriating the property of another with the intention of permanently depriving them of it (Theft Act 1968). This may include the removal or misuse of funds, assets or cash.

False Accounting

Dishonestly destroying, defacing, concealing or falsifying any account, record or document required for any accounting purpose, with a view to personal gain or gain for another, or with intent to cause loss to another or furnishing information which is or may be misleading, false or deceptive (Theft Act 1968).

Bribery and Corruption

The offering, giving, soliciting or acceptance of, an inducement or reward that may influence the actions taken by the authority, its members or officers (Prevention of Corrupt Practices Acts 1889 and 1916).

Deception

Obtaining property or pecuniary advantage by deception (sections 15 and 16 of the Theft Act 1968) and obtaining services or evading liability by deception (sections 1 and 2 of the Theft Act 1978).

Collusion

The term "collusion" in the context of reporting fraud is used to cover any case in which someone incites, instigates, aids and abets, conspires or attempts to commit any of the crimes listed above.

3. How Fraud Occurs

Four basic elements are present when fraud occurs:

- people are involved; they may be people or groups working inside or outside the Council
- assets are at risk
- intent/motive to commit the fraud is present
- opportunity

Managers have a responsibility to ensure that the opportunities for fraud are minimised. While some people would never contemplate fraud, others may if they thought they could get away with it. A high chance of being caught will deter them. Opportunities to commit fraud will be reduced by ensuring that a sound system of internal control has been established and that it is functioning as intended.

4. Examples of where behaviour may indicate Fraud

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals. Managers and staff should be alert to any warning signs that **might** indicate that fraud is taking place. These may include:

- staff under stress without a high workload
- first to arrive in the morning, last to leave at night
- egotistical (e.g. scornful of system controls)
- a risk taker or rule breaker
- reluctance to take leave
- refusal of promotion

- unexplained wealth
- sudden change of lifestyle
- new staff resigning quickly
- cosy relationships with suppliers/contractors
- suppliers/contractors who insist on dealing with one particular member of staff
- disgruntled at work, a complainer
- greedy, or has genuine financial need

5. Indicators of Potential Fraud in systems

To spot fraud indicators in individual areas or activities it is important that accepted practices have been established for the area or activity under review - the following are examples of possible fraud indicators in a number of areas:

- unusual employee behaviour (e.g. a supervisor who opens all incoming mail, refusal to comply with normal rules and practices, fails to take leave, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regular long hours working, job dissatisfaction/unhappy employee, secretiveness or defensiveness).
- key documents missing (e.g. invoices, contracts)
- inadequate or no segregation of duties
- absence of controls and audit trails
- inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation)
- documentation that is photocopied or lacking essential information
- missing expenditure vouchers and official records
- excessive variations to budgets or contracts
- bank and ledger reconciliations are not maintained or cannot be balanced
- excessive movements of cash or transactions between accounts
- numerous adjustments or exceptions
- overdue pay or expense advances
- general ledger out of balance
- duplicate payments
- ghost employees on the payroll
- large payments to individuals
- crisis management coupled with a pressured business environment
- lack of established code of ethical conduct
- lack of Senior Management oversight
- unauthorised changes to systems or work practices
- lack of rotation of duties
- policies not being followed
- Post Office boxes as shipping addresses
- lowest tenders or quotes passed over with minimal explanation recorded

- single vendors
- unclosed but obsolete contracts
- defining needs in ways that can be met only by specific contractors
- splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval
- vague specifications
- disqualification of any qualified bidder
- climate of fear or an unhealthy culture
- high staff turnover rates in key controlling functions
- chronic understaffing in key control areas
- low staff morale/lack of career progression/weak management
- excessive hours worked by key staff
- consistent failures to correct major weaknesses in internal control
- management frequently override internal control
- when an employee is on leave, the work is left until the employee returns
- lack of common sense controls such as changing passwords frequently, requiring two signatures on cheques or restricting access to sensitive areas
- an employee's lifestyle is more affluent than would be expected from his/her employment

6. Fraud and Corruption

Some **Do's and Don'ts for Managers** in creating the right culture

DO:

- **be open to staff concerns** - we need to encourage staff to voice any genuine concerns. You should reassure staff that if they raise concerns with you, they will be protected from victimisation or reprisal. If someone wishes to discuss a concern in confidence you should respect it, but tell him or her that there may be circumstances (for instance, where their evidence is needed in court) where the matter cannot be resolved unless their identity is revealed.
- **note details** - get as much information as possible from the employee. If he or she has made notes, ask for a copy of these. In addition, note any documentary evidence that may exist to support the concern, but do not interfere with this evidence in any way.
- **evaluate the information objectively** - before you take the matter further, you need to determine whether any suspicions appear justified. Be objective when evaluating it. Consider the facts as they appear, based on the information you have to hand.
- **advise the appropriate person** - the Anti-Fraud and Corruption Policy plan details who is responsible for investigating cases of suspected fraud or misconduct
- **deal with the matter promptly** - the sooner the problem is detected the sooner the damage caused can be repaired.

DON'T:

- **ignore or ridicule concerns raised by staff** - we cannot operate an effective anti fraud environment if employees are reluctant to pass on their concerns to the management. One reason people are reluctant to raise concerns is fear of ridicule or recrimination. As their manager you should reassure them that they will not suffer reprisal if they have genuine concerns, and that victimisation will not be tolerated.
- **approach or accuse any individuals directly** - if the concern seems credible, don't accidentally tip-off a fraudster in case incriminating evidence could be destroyed.
- **convey the concern to anyone other than someone with the proper authority** - we have appointed and trained designated individuals able to deal with and guide you on fraud matters.
- **try to investigate the matter yourself** - If the concern seems credible don't rush into investigating the matter yourself. Pass it on or discuss it as soon as possible with the person or body who has been given that responsibility.

Some **Do's** and **Don'ts** for **staff** who suspect fraud:

- **do raise the matter** - The sooner the problem is raised and looked into, the sooner any wrongdoing can be stopped and the sooner you and others can be reassured things are in order.
- **do pass on any reasonable suspicion to someone in authority**
- **do remember key details** - if possible, make a note of key details, such as what caused your suspicion, when things happened and who was involved.
- **don't ignore it** - if you are worried that some wrongdoing is happening at work, please don't keep it to yourself. Being wise after the event helps nobody.
- **don't investigate the matter** - you may make matters worse if you do. It's your job to raise the concern, not to prove it.
- **don't report your suspicions to someone who doesn't have proper authority** - there are special rules surrounding the gathering of evidence for use particularly in criminal cases. Attempts to gather evidence by people who are unfamiliar with these rules can inadvertently destroy the case.
- **don't delay** - as you won't be asked to prove your concern, raise it when it's a concern. Don't wait for proof.

7. Investigating suspected fraud

Internal Audit is normally the section to investigate cases of suspected fraud. Fraud and corruption investigations must be well managed and carried out by knowledgeable and experienced staff in order to result in the right outcome.

There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may adversely affect the outcome of the case.

Internal Audit staff are trained in handling fraud and corruption investigations, and are generally the appropriate people to conduct any further investigative work. Remember that a poorly directed investigation may prematurely alert the

suspect and result in the destruction of evidence. Your primary responsibility is to report the issue and all associated facts promptly and accurately to an appropriate person. You should then be prepared to co-operate as instructed in any subsequent investigation. You should not attempt to investigate the matter further yourself.

8. Fraud & Deception legislation

Relevant legislation includes:

- Theft Act 1968
- False Accounting – Section 17: Theft Act 1968
- Making/Using False Instrument: Forgery and Counterfeiting Act 1981
- Criminal Attempts Act 1981
- Aiding and Abetting Counselling and Procuring Accessories and Abettors Act 1861 Section 8
- Conspiracy to Defraud: Criminal Justice Act 1987
- Statutory Conspiracy: Criminal Law Act 1977 (as amended by Section 5, Criminal Attempts Act 1981)
- Prevention of Corrupt Practices Acts 1889 and 1916
- Fraud Act 2006

Internal Audit Contact details:

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Nikki Soave

Principal Auditor

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Other contact numbers:

The Council's Confidential Whistleblowing Line

Tel: (01793) 464603

Public Concern at Work

The Council also subscribes to Public Concern at Work who also provide a method of confidential reporting for staff who don't feel they can raise issues directly with the Council. Telephone no. 020 7404 6609

Acknowledgements: Birmingham City Council Audit Department; Sandwell Metropolitan Borough Council Audit Service.

Annual Report and Work Programme

Standards Committee

Date: 23 July 2007

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

Wards Affected: All

Purpose

- To ask the Committee to agree its Annual Report for 2006/07 and Work Programme for 2007/08.

Recommendation

- That the Committee considers and agrees its Annual Report for 2006/07 and forwards it to Full Council for information.
- That the Committee considers and agrees its Work Programme for 2007/08.

1. Reasons

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

2. Detail

Standards Committee Annual Report

- 2.1 The Standards Committee each year prepares an Annual Report summarising the work of the Committee and highlighting the various aspects of the Ethical Framework considered by the Committee. This is presented at Full Council, in order to inform Members of the role played by the Committee in promoting and maintaining high standards of conduct, involve all Members in the work of the Committee, and continue to raise the profile of the ethical framework for Members.
- 2.2 The draft of the Annual Report for 2006/07 is attached at Appendix '1'. The Committee is asked to consider if this accurately reflects its work for the year, and to make any amendments. The Chair of the Standards Committee will add a foreword to the Report. Once agreed the Report will be presented to the next Full Council meeting.

Work Programme

- 2.3 An outline work programme for the Committee for 2007/2008 is attached at Appendix '2' for discussion and approval.

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.

Annual Report and Work Programme

Standards Committee

Date: 23 July 2007

Alternative Options

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

Risk Management

Financial and Procurement Implications

- None

Legal / Human Rights Implications

- None

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

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

Consultees

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

Background Papers and Appendices

- Appendix 1 – Draft Annual Report 2006/07
- Appendix 2 – Draft Work Programme 2007/08

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.

Swindon Borough Council

Annual Report of the Standards Committee

May 2006 to April 2007

INTRODUCTION BY THE CHAIR

To be inserted

Keith Carby – Chair of Standards Committee.

Background to the Standards Committee

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

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

The Committee was first established in February 2000, prior to the requirement for Councils to establish a Standards Committee as set out in the Relevant Authorities (Standards Committees) Regulations 2001, which came into force in August 2001. This has enabled a firm foundation of work to be laid.

The work of the Standards Committee was commended by the Council's External Auditors in the review of the Council's new political arrangements (*"Democratic Renewal: The Modernisation of Local Government"*, April 2002) and described as 'proactive and robust' in the Corporate Governance Inspection of December 2004.

Membership of the Committee

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

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

During 2006 / 2007 the Membership was as set out below:

Independent Members	Mr Keith Carby (Chair of the Standards Committee) (appointed until 2008). Mr Trevor Davies (Vice-Chair of Standards Committee) (appointed until 2007*). Mr Paul Morris (appointed until 2010).
Parish Council Representative	Mr Mike Compton (Blunsdon Parish Council) has continued to serve the Committee during 2006/07 as a voting representative for the parish councils and was nominated by the Swindon Area Committee of Parish Councils. Mr Richard Hailstone (Haydon Wick Parish Council) has been appointed as his deputy.
Elected Members	Councillors Melanie Duff, Maurice Fanning and Martin Wiltshire served as elected Member representatives during 2006 / 2007. Councillors Fay Howard and Peter Stoddart have served as deputy members and attended as required.

*As Trevor Davies' term ended in May 2007, the appointment process was commenced in March 2007 and following public advertisement and publicity in the local newspaper, Mr Trevor Davies was reappointed as an independent Member from May 2007 for a further four year term.

At the Committee Meeting on 29th January 2007, the Committee authorised the Monitoring Officer to carry out the advertisement process for all future vacancies, whenever they arise.

WORK PROGRAMME FOR 2006/2007

The Standards Committee met six times between June 2006 and May 2007, and held one Standards Committee Hearings Panel. The following is a summary of the Committee's activities.

Officers Code of Conduct

At its meeting in March 2006, the Committee was advised by the Director of Human Resources that the Secretary of State had been considering the issue of a generic Code of Conduct for local government employees for some time, but the issue had remained unresolved. In the absence of national guidance, the Council had decided to develop and implement a local Code of Conduct as part of its commitment to sound corporate governance. The Standards Committee reviewed and commented on the Code in March 2006 and authorised the Director of Human Resources to carry out a consultation with staff representatives and other interested parties.

Following a successful consultation, the Committee at its meeting in July 2006 approved the Officers Code of Conduct and authorised the Director of Human Resources to commence communication and roll-out in partnership with staff representative unions. The Code of Conduct has subsequently been issued to all staff and they have been asked to sign to confirm their understanding and commitment to upholding it.

New Model Code of Conduct for Members

Following consultation on what should be included in a new Code of Conduct in June 2005 and December 2005, the Department for Communities and Local Government (DCLG) issued the Local Government White Paper 'Strong and Prosperous Communities' in October 2006, which set out the Government's intention to put in place a clearer and simpler model code of conduct, which would include changes to the rules on personal and prejudicial interests.

The DCLG issued their final consultation on the revised code in January 2007. The Committee held a special meeting on 26th February to consider the proposed changes to the Model Code of Conduct for Local Authority Members and responded with representations by the closing date of 9th March 2007.

The revised Code of Conduct was issued by DCLG on 2nd April 2007, with a duty on local authorities to adopt the new Model Code within 6 months, and a recommendation that local authorities include a preamble to the Code which outlines the ten general principles governing the conduct of members.

The Committee gave consideration to the provisions of the new Model Code at a special meeting held on 30th April, and recommended to the Annual Council meeting on 18th May that the Code be adopted without amendment, together with the 10 general principles.

The key changes in the New Code discussed by the Committee were: -

- The application of the Code primarily to actions in a private capacity only where resulting in a criminal conviction.
- A change in emphasis from requiring Members to promote equality to not doing anything that may cause the authority to breach any equality enactments.
- A new requirement not to bully any person.
- A new obligation on members to have regard to the Code of Recommended Practice on Local Authority Publicity.
- A strengthening of the obligation to have regard to any relevant advice given by the Monitoring Officer and the Chief Finance Officer.
- A removal of the requirement on members to report any breaches of the Code to the Standards Board.
- The addition of the requirement to register an interest that relates or is likely to affect the interests of any person from whom at least £25 worth of gift or hospitality has been received.
- The need to declare all personal interests at meetings including the nature of the interest; with the exception that an interest arising in relation to public body or a body to which the member has been nominated or appointed by the Council, need only be declared at a meeting if the Member speaks on the issue.
- The need to declare an interest if a matter affects family or a person, with who the Member has a close personal association, including employers of those people, but only if aware or if ought reasonably to be aware of the interest.
- The new provision allowing a Member not to disclose sensitive information that could create a serious risk of violence or intimidation at the discretion of the Monitoring Officer
- The change in definition that an interest is only prejudicial if affecting the financial position of the member or associated person or body, or if relating to any approval, consent, licence, permission or registration for such a person or body.
- That a member with a prejudicial interest may make representations, answer questions or give evidence at a meeting open to the public, provided that the public are also allowed to attend the meeting for the same purpose, prior to withdrawing.
- A change in the requirement to keep information confidential, if considered to be in the public interest for the information to be released.

The Committee welcomed the planned training for Members and Parish Councillors that included:

- Inclusion of ethical training in the induction process for new members on 9th May 2007.

- A detailed training session open to all members and co-opted members on 13th June 2007, for all members to be equipped with a basic knowledge of the Code in relation to meetings taking place.
- An open invitation to political groups and individual members for the Monitoring Officer to hold additional training sessions on request.
- Training Sessions open to all Parish Councillors on 10th and 24th May.

Anti-Fraud and Corruption Strategy and Whistleblowing Procedure

It is part of the Committee's remit to approve and monitor the anti-fraud strategy and whistleblowing procedures and ensure that they operate effectively.

The Head of Internal Audit had highlighted at the beginning of the municipal year that it would be appropriate for the Anti-Fraud and Corruption Strategy and Whistleblowing policy to be reviewed during 2006/07 and this review had been included in the Committee's work programme.

The Head of Internal Audit presented the revised Anti-Fraud and Corruption Strategy and the Whistleblowing Policy in January 2007. These had been updated to ensure that they reflected changes in legislation and best practice. It was noted that the Anti-Fraud and Corruption Strategy set out measures designed to frustrate any attempted fraudulent or corrupt acts and the steps to be taken if such action occurred. The Council's Whistleblowing Policy supported the Anti-Fraud and Corruption Strategy encouraging and enabling employees, Members and Governors to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally, without the fear of reprisals.

The Committee approved the revised documents for consultation, and asked that the Head of Internal Audit report back with the final policies for approval, following consultation with relevant stakeholders including Group Directors, Directors, External Auditors and Capita.

The revised policies are due to be reported back to the Committee for final approval in July 2007.

Monitoring of Whistleblowing Complaints

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

During 2006/07, the Committee was notified of 3 new complaints, and informed of the progress of investigation, and where appropriate resolution, of these and the 6 complaints carried forward from 2005/06.

Members of the Council and Standards Committee have received copies of the Fraud Bulletin during the year produced by the Head of Internal Audit, which

advises of frauds undertaken in other authorities and alerts Members and Officers of the need to protect against similar frauds taking place in the Council.

Ethical Audit

At its meeting in January 2007, the Committee requested that the Monitoring Officer bring back to the next meeting an updated Ethical Audit Matrix for the Council. In July 2005, the Committee had approved the first desktop audit of the authority and local parishes against the criteria set out in an Ethical Audit Toolkit prepared by the IDeA (Improvement and Development Agency).

During the year, the Monitoring Officer acted as a peer reviewer on an IDeA Ethical Governance Health Check carried out for a London Borough. This was an extremely useful exercise, both in terms of personal development and shared learning, and this informed the review of the Ethical Audit Matrix.

The Monitoring Officer reported back in March 2007 setting out the inspection context of the Council, the performance in relation to Corporate Governance and Ethical Standards and, updating the matrix against the standards recorded and actions agreed in July 2005. Under each category, work had taken place since the last evaluation, to complete the actions identified.

For the next stage of the evaluation the Committee agreed a number of actions, on which the Committee will receive regular updates during 2007/08. These included:

Sharing Best Practice in Standards –

- That a Standards Conference be held during 2007/08 to share learning and experience on the ethical framework and codes of conduct with the Council's stakeholders and external partners.

Member and Officer Training –

- That the Monitoring Officer begin a process for evaluating the implementation across departments of training on the ethical framework within the Officers' Induction Programme and report back to the Committee.
- That the Monitoring Officer promote a course on Chairing skills in the Members' Training Programme for 2007/08 and report back to the Committee on progress; and that independent members and co-opted members be invited to attend relevant training courses.
- That the Monitoring Officer investigates use of the Staff Satisfaction Survey to understand staff ethical framework understanding and training requirements.

New Model Code and Implications for other Codes and Protocols

- That changes arising from the adoption of the new Model Code of Conduct to the Council's existing Codes and Protocols be included in the Standards Committee Work Programme for 2007/08, including an amendment to the Member / Officer Protocol to require Members to

consult with the Monitoring Officer prior to the disclosure of any confidential information.

The work of the Standards Board for England

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

Reviews of key developments during the year have included: -

- Review of the Implications of the *Livingstone Case* and the Guidance from the Standards Board on the more restrictive view arising from it of when the Code of Conduct can apply to the actions of a Member in a private capacity. (*October 2006 and January 2007*)
- Review of the response by the Council's Corporate Governance Working Group to the CIPFA / Solace publication 'Good Governance in Local Government – A Framework'. (*October 2006*)
- Review of Adjudication Panel Decisions (October 2006) and Case Alerts. (*January 2007*)
- Update on the *Local Government and Public Involvement in Health Bill, arising out of the Local Government White Paper 'Strong and Prosperous Communities'* issued in October 2006 and its proposals including:
 - New powers for the Standards Board,
 - Revision of the Code of Conduct,
 - New local filtering powers,
 - New powers for Standards Committees to decide appeals on the designation of a post as politically restricted.

Following on from discussion of the Bill, the Committee agreed to offer to be one of approximately 50 Standards Committees nationally taking part in a Standards Board Pilot for developing the procedures for the local filtering of complaints. The pilot would take place in July 2007. (*January 2007*)

Corporate Governance

At its meeting in October 2006 the Committee was informed of the outcome of the Council's Comprehensive Performance Assessment (CPA) and the Joint Area Review (JAR), which had been published on 10th October. The Committee in particular welcomed the comments in the judgement that:

“Appropriate mechanisms are in place and are effective in ensuring good, ethical standards are maintained. Codes of conduct are in place, action has been taken in instances of improper conduct”.

It was noted that this judgement reinforced similar comments made in previous CPA judgements in relation to the work of the Standards Committee.

At the same meeting, the Committee noted that the CIPFA checklist for the Corporate Performance Assessment at Level 3 (Key Lines of Enquiry) required Councils to be proactive in ensuring that:

“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).”

The Committee received a report from the Monitoring Officer on the training being arranged for new Councillors, existing Councillors and Parish Councillors, relating to Ethics and Probity including participatory case study exercises.

Media Guidelines for Councillors

During the year, the Committee considered and agreed for consultation revised Media Guidelines for Members, which would form part of the Constitution and part of the new Communications Strategy for the Council. Following consultation with Members, the Head of Communications will be reporting back with the final Guidelines for the Committee’s approval in the new municipal year.

Appointments to the Remuneration Panel

As part of the wider role of the Committee, the Committee approved the appointments to the new remuneration panel at its meeting in January 2007.

Complaints to the Standards Board for England

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

During the year, the Committee has been notified of 10 complaints to the Standards Board against Swindon Borough Councillors. Each case resulted in a decision by the Standards Board that the matter need not be investigated.

A complaint against a Parish Councillor first notified to the Committee in March 2006, was formally referred by the Standards Board to the Monitoring Officer at the end of 2006 for local investigation and for local determination by the Standards Committee. A Standards Committee hearing was held on 23rd March 2007, resulting in the Councillor being required to attend training on the Code of Conduct. The requirement for training was supported by a suspension of one month if the training was not carried out within 3 months to the satisfaction of the Monitoring Officer. The Parish Councillor has subsequently attended the training and the Monitoring Officer confirmed that the suspension would not be required. In addition to the formal sanction set out above the Standards Hearing Panel recommended that: -

- All Parish Councillors of that Parish attend training on the Code of Conduct within 3 months.
- The Clerk to that Parish Council undertake training on the Code of Conduct, and receive a briefing from the Monitoring Officer as to her roles and responsibilities, within 3 months.
- The Monitoring Officer should make available to Parish Council Chairs and Vice-Chairs any training sessions on chairing of meetings that are arranged for Borough Councillors.
- The Parish Council concerned be requested to invite the Monitoring Officer and a Standards Committee Independent Member to attend a future meeting of the Parish Council to discuss any issues arising from this matter.
- The Monitoring Officer circulate a summary of the decision to all Parish Councils in the Borough of Swindon and ask the Clerks to confirm that they are satisfied that their Parish Council is operating in accordance with the Code of Conduct.

Local Determination Regulations

The Committee adopted new procedures in November 2005 for the Local Investigation of Referred Complaints under the ' Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004.

The Council's first local investigation and hearing under these Regulations took place in May 2006. The Monitoring Officer reviewed the procedures in the light of its operation and recommended to the Committee in October 2006 that no change was required at that time.

The further local investigation and hearing held in March 2007 used the procedure successfully. The Committee will keep it under review to ensure it remains fit for purpose when operating local determination powers.

Parish Councils

Work has been ongoing with parish and town councils to help them promote and maintain ethical standards in their Councils, and offering the Standards

Committee's assistance wherever required. This work is assisted by the presence of Mr Mike Compton (and his deputy, Richard Hailstone) as a member of the Standards Committee.

Training sessions are offered to Parish Councils on the principles of the Members Code of Conduct and its interpretation in sample cases. The Monitoring Officer chairs quarterly meetings of Parish Clerks in the Borough and the Ethical Framework is a standing item on the agenda, and any issues arising are reported back to the Standards Committee. In addition quarterly liaison meetings are held between Parish Councillors and representatives of the Borough Council to promote and maintain the Borough / Parish Charter, which is an important part of decision-making and proper consultation between the Borough and the Parishes.

Despite the training that has been on offer to Parishes for many years, the hearing held in March 2007 highlighted again the need for all Parish Councillors and Clerks to fully understand the implications of the Code of Conduct in respect of declarations of interest.

Breach of Member / Officer Protocol

No formal complaints under the Member / Officer Protocol have been notified to the Committee by the Monitoring Officer during 2006/07. Where informal complaints have been received by the Monitoring Officer, he and the Chair of the Committee have met with the relevant Councillor to discuss the alleged conduct, to understand the circumstances surrounding the complaint, and if appropriate provide training and arrange redress, such as by written apology.

Complaints on Ethical Standards

The Council monitors complaints received from members of the public in relation to its operation and decision-making. No complaints were received during the 2006/2007 Municipal Year that related to the ethical standards of the authority.

Independent Members Network

The Independent Members Network Forum for Wiltshire, Oxfordshire and Berkshire was first convened in October 2004, and has met on a bi-annual basis since then, including meetings in October 2006 and April 2007. The independent members who have attended have found the forum to be valuable in sharing experience with other lay members and promoting best practice. Mr Trevor Davies has been appointed to represent the Forum on the national Independent Member Forum Co-ordinator's Meetings, convened by the Standards Board for England.

In July 2006, the Committee was approached by a newly formed 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. The Committee, advised by the independent members present, felt that although any independent member could decide to sign up individually, it was not appropriate for the Council to fund its work. There were concerns 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.

Declarations of Interest

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

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

SUMMARY

The Standards Committee has had a very active year and has continued to promote and monitor ethical standards in the authority and local parish Councils. The adoption of the New Model Code of Conduct for Members, and discussion of future changes for the reporting and filtering of complaints under the Code have been significant developments.

The Committee has continued to develop its experience of advising on ethical matters and its hearings skills, and the foundation established will enable it to play a successful role in the future, where a greater involvement of Standards Committee in the early stage of complaints management is anticipated. In addition, the Committee will continue to take a robust role during the coming year in actively promoting and enhancing the Council's openness, accountability and probity.

There have been relatively few instances of impropriety during 2006/07, but where these have occurred they have been dealt with pro-actively and robustly by the Monitoring Officer and Standards Committee.

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Standards Committee
Draft Work Programme for 2007 / 2008

The following work programme is proposed:

<u>Meeting</u>	<u>Agenda Item</u>
23 July 2007	<ul style="list-style-type: none"> • Consider draft Annual Report for 2006/07 • Update Anti-Fraud Strategy and Whistleblowing Policy. • Update Media Guidelines for Members • Agree future Work Programme
15-16 October 2007	Standards Board Annual Conference
29 October 2007	<ul style="list-style-type: none"> • Review Council Codes and Protocols as a result of the Adoption of the new Members Code of Conduct and consult thereafter as necessary. • Report on proposal for a Standards Conference.
21 January 2008	<ul style="list-style-type: none"> • Adopt revised Council Codes and Protocols
14 April 2008	<ul style="list-style-type: none"> • Review Procedures for Hearings

Date to be agreed	<ul style="list-style-type: none"> • Standards Conference
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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 July 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 Media Guidelines for Members attached at Appendix 3 and they be incorporated in the Constitution.

1. Reasons

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

2. Detail

Local Filter Pilot Workshop

- 2.1 On 11th July 2007 a Local Filter Pilot Workshop was held to consider a set of cases sent by the Standards Board for England to participants in the Pilot. The intention was to give feedback to the Standards Board for England as to how a local filter system could work and to enable members of the Committee to shape the national development of the Local Filter Process. It also gave valuable experience to Standards Committee members in operating the likely local filter process. Thanks are extended to those members who participated in the workshop.
- 2.2 The exercise went very well and feedback will be provided to the Standards Board. The Monitoring Officer will report to the Committee on the outcome of the pilot in due course.

Ethical Audit

- 2.3 At the meeting on 19th March 2007 the Committee approved a revised Ethical Desktop Audit and identified key areas for action and review. Attached at Appendix '1' is a copy of the Ethical Audit Matrix, updated to show the progress against the actions agreed.

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 July 2007

Learning and Development Update

- 2.4 As part of the Ethical Audit the importance of training for Councillors and co-opted members was recognised. Attached at Appendix '2' is a summary of the training undertaken by Members since the beginning of the municipal year.

Revision of Media Guidelines

- 2.5 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.
- 2.6 Following consultation with the Group Leaders, and discussions about the principles of media relations with the Cabinet and Labour Group, the Head of Communications has revised the Media Guidelines and these are attached at Appendix '3' for the Committee's final approval.

Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum

- 2.7 A meeting of the Forum took place at Newbury on 20th April 2007. . Attached at Appendix '4' are a copy of the notes of the meeting and a copy of the slides used by the Standards Board for England in their presentation to the meeting. Mr Trevor Davis attended and will report further on any key issues that were discussed.
- 2.8 The next meeting of the Forum is scheduled for 11 am on Friday 19th October and will be hosted by Wokingham.

Standards Board Publications

- 2.9 Attached at Appendix '5' and '6' are the Standards Board Bulletins for May 2007 (Issue 33) and July 2007 (Issue 34) which include:

Issue 33:

- a summary of the major changes to the new Code of Conduct.
- details on adopting and amending the new Code of Conduct, and special advice for parish and town councils.
- an update on local investigations.

Issue 34:

- common queries about the revised Code of Conduct.
- a look at paragraph 4(a) of the Code and the disclosure of confidential information.
- an exploration of findings of no further action.

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 July 2007

Standards Board Roadshow

- 2.10 Trevor Davies and Mike Compton attend the recent Standards Board Roadshow held in Swindon which focused on the New Model Code of Conduct for Members and on other issues, such as bias and pre-determination. They will report any further information at the meeting.

Annual Standards Board Conference

- 2.11 The next Annual Standards Board Conference in Birmingham will be held on 15th and 16th October 2007, and will be entitled: 'Down to Detail' and will focus on putting local regulation and the new Code of Conduct into action. Members are asked to advise the Monitoring Officer if they wish to attend the conference as soon as possible.

Alternative Options

- None

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 – Updated Ethical Audit Matrix
- Appendix 2 – Learning and Development Update
- Appendix 3 - Revised Media Guidelines
- Appendix 4 – Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum – Notes and Presentation Slides – 20th April 2007
- Appendix 5 – Standards Board Bulletin for May 2007 (Issue 33)
- Appendix 6 – Standards Board Bulletin for July 2007 (Issue 34)

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

Appendix 1

	Key Information	Held	Comment:	Area of Review or Action identified by the Standards Committee on 19th March 2007 and update on progress made.
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</p>	<p>Agreed that a Standards Conference be held during 2007/08 to share learning and experience on the ethical framework and codes of conduct with the Council's stakeholders and external partners. The</p>

			Conference at which such matters can be explored.	Monitoring Officer contact appropriate partner organisations and report back to the next meeting with a proposal. UPDATE – This is ongoing. The Monitoring Officer will be speaking to Parish Councils at the next quarterly meeting.
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	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 th March 2007. 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.	.

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 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.</p>	
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.	Agreed that the Monitoring Officer begin a process for evaluating the implementation across departments of training on the ethical framework within the Officers' Induction Programme and report back to the Committee. UPDATE – This is ongoing. The Monitoring Officer is in the process of liaising with Learning and Development.
13	Members' Continuing Development	Yes	A range of development / training opportunities are offered and a record of attendance kept 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	Agreed that the Monitoring Officer promote a course on Chairing skills in the Members' Training Programme for 2007/08 and report back to the Committee on progress; and that independent members and co-

			<p>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>	<p>opted members be invited to attend relevant training courses.</p> <p>UPDATE - A course on Chairing Skills was arranged for 5th July but there was a low turnout notified. The session is therefore being rearranged to take place immediately before Scrutiny Committee, as it is anticipated that many of the Chairs and Vice-Chairs are likely to be present for that meeting.</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	<p>A competencies based system of annual appraisals is in place across the Council which identifies development needs.</p>	
16	Officers' Training	Yes	<p>A range of Officer training is available, and training needs are identified as part of the appraisal system.</p>	<p>Agreed that the Monitoring Officer investigate use of the Staff Satisfaction Survey to understand staff ethical framework understanding and training requirements.</p>

			<p>UPDATE: The Monitoring Officer has discussed this with Rebecca McKenzie, the Director of Human Resources and will be discussing further.</p>
17	Other Council Specific Additional Codes And Protocols	<p><u>Monitoring Officer Protocol</u> - Adopted in December 2003 and reviewed by the Committee on 18th April 2005 following 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 18th 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 18th 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</p>	<p>Agreed that the Monitoring Officer review the Monitoring Officer Protocol, Members' Planning Protocol and Members' Code of Good Practice in the light of changes in the proposed new Members' Code of Conduct and report to the Committee to recommend appropriate amendments.</p> <p>UPDATE: A review of the relevant Codes and Protocols has been included in the Committee Work Programme for 2007/08.</p>

			<p>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 be 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>	
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Agreed 9th March 2007 (updated with progress July 2007)

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Learning and Development Update

Set out below is a list of the Training and Development undertaken by Councillors since the beginning of the new municipal year. This is regularly reported to the Members Development Steering Group, which received this update on 3 July 2007.

In March all Candidates for the May 2007 election were notified by letter of the Learning and Development Dates for 2007/2008 to give them an early opportunity to make a note in their diaries and the programme of events has been included in each week's publication of the Members Bulletin to give Members advance warning of the sessions.

The following events have been held this municipal year:

Induction for New Members – 9 May 2007

6 Members attended (100% attendance)

The induction programme for new Members covered the following

- Welcome and Introduction to the Chief Executive and the Corporate Board.
- A brief presentation by the Leader on the issues being addressed by the Council.
- The Role of a Councillor.
- Equalities and Diversity – Age Discrimination.
- Ethics and Probity – reference to the new Code of Conduct.
- Health and Safety – corporate responsibility and lone working.
- Regional Spatial Strategy/Regional Assembly/Economic Development and Regeneration.
- The session ended with tea and cakes in the Mayor's Parlour and an opportunity to view and receive a brief presentation on the civic regalia and the Coat of Arms.

Planning Training for Committee Members -originally scheduled for 10 May but postponed to 5 June 2007-

7 Members attended

100% of New Members elected in May 2007 and serving on the Planning Committee attended. Overall 50% of the Planning Committee attended the training.

The evening commenced with a brief explanation of the role of the Development Management group and the composition of the group in the context of their various geographical responsibilities within the Borough. This led to a discussion about the various types of planning application the group deals with and the typical journey of a planning application.

From a more legal perspective, Members were provided with advice on codes of good practice during the planning process and what material considerations could be considered as relevant when assessing a particular planning application. It was explained that the development plan carried a great deal of importance when assessing planning applications and, in particular, the adopted Swindon Borough Local Plan. Finally, there was considerable discussion on the issue of enforcement.

Learning and Development Update

The consensus from Members appeared to be that the evening was very informative, interesting and worthwhile.

Licensing Committee Training - 14 May 2007

14 Members attended

100% of new Members (elected in May 2007) who are serving on the Licensing Committee attended. Overall, 50% of the Licensing Committee attended the training.

The objective was to prepare Members for their role on the Licensing Committee. The Licensing Act 2003 and the Gambling Act 2005 were compared. The Members also had an opportunity to work through a “pretend” licensing panel. However, Panel Members will be given further intensive training when appropriate.

Annual Scrutiny Conference 22 May 2007

24 Members attended

The Annual Overview and Scrutiny Conference on 22nd May 2007 achieved the following outcomes:

- An insight in to the operation of Select Committees in Westminster and lessons to be learned by local government scrutiny.
- Consideration of suggested issues for inclusion on overview work programmes as a result of consultation with members, officers, external stakeholders and the public.
- Development of draft work programmes for each of the overview committees, based on priorities identified by the consultation prior to the Conference.

Media Training – 24 May 2007

Two Sessions – Beginners – 4 members (plus 2 officers)

– Advanced – 6 members

Each session had a maximum of 6 members per session. The beginner’s session dealt with how a story would look in print, what journalists want and “off the record”. This was followed at the BBC Radio Studios in Old Town with interviewing techniques and an interview with a Radio Presenter.

The second two-hour advanced session simply concentrated on interviewing techniques and was held at the BBC Studios.

The feedback from both sessions was excellent and a request has been received to hold a further session to enhance interview technique skills.

Learning and Development Update

Anti Smoking in Public Places - 30 May

Two sessions: 12.30 pm **2 Members attended**

6.00 pm **6 Members attended**

Members were given a presentation on the implications of the smokefree legislation which is effective from 1 July 2007. Following that session a leaflet was included in the Members Bulletin highlighting various issues relating to the new legislation.

Health Scrutiny Committee Conference 7 June 2007

9 (out of 10) Members attended

Building on the success of the Annual Overview & Scrutiny Conference, the first Health Scrutiny Conference was held on 7th June 2007:

- Representatives from Swindon Primary Care Trust, Swindon & Marlborough NHS Trust, Avon & Wiltshire Mental Health Partnership NHS Trust and Public and Patient Involvement Forum representatives from each of the 3 Trusts also attended.
- The Conference was facilitated by an Associate from the Centre for Public Scrutiny and IDeA Health Scrutiny Support Programme
- Outcomes:
- Members received an introduction to the role of Health Scrutiny, and the current national priorities for the NHS.
- Members and health partners discussed suggestions for inclusion in the work programme for 2007/08 that had resulted from consultation with Members, officers, health partners and the public.
- Members and health partners agreed 6 priorities to be progressed as part of the work programmed for 2007/08.
- The Conference provided a valuable opportunity for Members and health partners to meet, many for the first time and several members are new to the Committee this year.

Ethics and Probity – 13 June 2007

Attended by 11 Members and 2 Lay Members

The Monitoring Officer outlined the implications of the New Code of Conduct that was adopted by the Council on 18 May 2007.

Borough Farms Tour – 18 June

This Tour has been postponed to 18 September 2007 due to insufficient Members being able to attend.

Equalities and Diversity – 19 June 2007

5 members attended the lunch time session

6 members attended the evening session

The session covered, through the use of case studies and questionnaires:

- Institutional practices within an organisation and what can be done to combat this.; and
- the impacts on employees and employers and how legislation in general evolves.

The facilitator found it to be a worthwhile event

Learning and Development Update

Health Scrutiny Training

Attended by 5 Members

The session introduced members to the basic issues of the local authority's scrutiny of the National Health Service.

Housing Tour – 21 June

Attended by 6 Members (in addition to some tenants and officers)

There was positive feedback from those who joined the tour.

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 Head of Communications.

INDEPENDENT MEMBERS' FORUM

Berkshire, Oxfordshire and Wiltshire Standards Committees

Notes of a meeting of the Independent Member's Forum held at Shaw House, Newbury, Berkshire on Friday 20 April 2007.

PRESENT:

Albert Gregory	Independent Member	Royal Berkshire Fire Authority
Michael Field	Independent Member	Slough Borough Council
Paul Lipscomb	Independent Member	Slough Borough Council
James Rees	Independent Member	West Berkshire Council
John Bingham	Independent Member	West Berkshire Council
David Holling	Monitoring Officer and Head of Legal & Electoral Services	West Berkshire Council
Andy Day	Deputy Monitoring Officer and Policy Manager	West Berkshire Council
Vicky Wheatley	Policy & Research Officer	West Berkshire Council
David Comben	Independent Member	Wokingham District Council
David Soane	Independent Member	Wokingham District Council
Paul Thomas	Solicitor	Thames Valley Police Authority
Douglas Frewer	Independent Member	Cherwell District Council
John Lay	Independent Member	Oxford City Council
Jeremy Thomas	Monitoring Officer	Oxford City Council
David Howard	Independent Member	Vale Of White Horse
Stuart Harrison	Independent Member	West Oxford
Alan St G Savill	Independent Member	Kennet
James Carine	Independent Member	North Wiltshire & Wiltshire Fire
Rodney Job	Independent Member	Salisbury District Council
Trevor Davies	Independent Member	Swindon Borough Council
Keith Shipman	Independent Member	Wiltshire County Council
Peter McGuigan	Independent Member	Wiltshire County Council
Nick Verginis	Policy Adviser	The Standards Board for England

1. **Welcome**

James Rees, Independent Chairman of the West Berkshire Council Standards Committee, welcomed participants to the meeting.

2. **Apologies for Absence**

Apologies for absence were received from:

Paul Lefever		
Rosemary Lansdowne	Monitoring Officer	Royal Berkshire Fire
Frederick Ashmore	Independent Member	Slough
Steven Quayle	Monitoring Officer	Slough
June Cook		Slough
Charles Elly	Independent Member	Windsor & Maidenhead
Roger Sparrow	Independent Member	Windsor & Maidenhead
Anita Grosz	Independent Member	Wokingham
David Best	Officer	Cherwell
Ken Giles	Independent Member	Cherwell
Christopher Turner	Independent Member	Oxford
Margaret Thompson	Independent Member	West Oxford
Bob Philpott	Independent Member	North Wiltshire
Jane Clarkson		Salisbury
Keith Strickland	Monitoring Officer	Wiltshire & Swindon Fire
Ron Flux	Business Manager	Wiltshire Police
John Adams	Independent Member	Wiltshire Police
Anthony Hadfield	Independent Member	Wiltshire Police
David Jones	Independent Member	Thames Valley Police
Peter Cleasby	Independent Member	Thames Valley Police
Gordon Anderson		Bracknell Forrest
Kevin Jacob		Wokingham
Mike Rowan		Kennet

3. **Notes of the Previous Meeting**

The Forum received the notes of the previous meeting held on 27 October 2006.

Members of the Forum queried how many Independent Members had joined the Independent Standards Committee Members Association following the presentation by Bruce Claxton at the Forum meeting on 27 October 2006. It was felt take-up had been low.

4. **Presentation by Nick Verginis (Policy Advisor), the Standards Board for England.**

The Forum received a presentation on the Revised Code of Conduct from Nick Verginis, a Policy Advisor for the Standards Board for England. He reported that:

- The new Code would come into effect on 3 May 2007, with Council's being required to adopt the Code by 1 October 2007,
- The new Code aimed to be clearer, clarify rules on interests, empower members to act as community advocates and express objection or support openly, remove the duty to report breaches, provide advice on bullying, give greater clarity on confidential information and cover criminal activities,
- Guidance on declaring interests had been revised so that fewer interests would be declared and Members could become better advocates for their Ward,

- There would be no need to declare an interest in a meeting (such as being a school governor) if a Member had already registered this with the Council,
- The intention of the Code was to give Members the same rights as members of the public. Members with prejudicial interests would have the opportunity to speak on the item and then leave the meeting,
- The Standards Board would provide help to Parishes to adopt the new Code,
- Councils would be able to adapt the Code to their own local requirements but not change the core principles, to ensure consistency,
- Guidance on the disclosure of confidential information would be available on the Standards Board website. It aimed to minimise disclosure of confidential information abuses, such as for political purposes. Members would be advised to contact the Head of Legal or Chief Executive before disclosing any confidential information and consider the Council's own guidance,
- The private conduct of Members would only be considered by the Code when that conduct was criminal and led to a conviction. Cautions or fixed penalty notices would not be included.

Members of the Forum were asked to note that the provision for allowing Members to speak on prejudicial interests was not mandatory for Parishes and other non-local authority organisations. Parishes must also choose to adopt paragraph 12(2).

Members of the Forum expressed concern with the timing of the introduction of the new Code being so close to the local elections, and that the timescale to adopt the Code was short. Nick Verginis reported that the Standards Board were aware of these concerns, and would provide guidance on their website. They were also aware that where Members were part of 2 different bodies (such as District and Town/Parish Councils) the Code may be introduced at different times.

Nick Verginis confirmed that in the new Code bullying was defined as someone having influence with personal or malicious intent or undermining someone's ability to carry out their job. Bullying could be a single event as well as over a sustained period of time.

5. **Open Forum** Members raised the following matters:

(a) Stature of Standards Committees in Councils

The Forum debated whether Councils could make more use of Standards Committees by referring more matters to them or allowing them to consider other topics. In Wiltshire, for example, the Standards Committee were seen as guardians of the Constitution and had carried out a review of the decision making process. In Swindon the Committee also considered the Code for Employees and whistle blowing. It was acknowledged that the role of the Standards Committee depended on the local authority and the leadership.

(b) Adjudication Panels

Members of the Forum expressed concern that there were not always aware when an Adjudication Panel was being held in their area and the cases were not well publicised.

6. **Date and Venue of Next Meeting**

AGREED: That the next meeting would be hosted by the Royal Borough of Windsor and Maidenhead Council, at a date to be confirmed.

(Duration of Meeting 11am to 1pm)

These notes were drafted by Vicky Wheatley, Policy & Research Officer, West Berkshire Council. E-mail vwheatley@westberks.gov.uk

The Revised Code of Conduct

Nick Verginis
Policy Adviser

Confidence in local democracy



Timetable

- Model Code tabled in Parliament on 4 April 2007
- Available from the Stationary Office website Order No. 1159
www.opsi.gov.uk/si/si200711.htm

Next steps:

- Code comes into effect on 3 May 2007
- Guidance and advice
- Adopt the Revised Code by 1 October 2007

Confidence in local democracy

Aims of the Revised Code

- A clearer, more enabling Code
- Rules on interests are clearer and empower members as community advocates and to express objection or support openly
- Remove duty to report breaches
- Include specific provision on bullying
- Greater clarity on confidential information
- Criminal activities covered by the Code

Confidence in local democracy

Interests – what is it trying to achieve?

- Members do not have a personal interest where it is merely something they share with their ward
- Reduce number of personal interests to be declared
- ‘Public service interests’ need only be declared when you speak on the matter and only prejudicial if related to specific applications/funding

Confidence in local democracy

Personal Interests – New Definition Para 8

You have a personal interest where the matter:

- **Relates to an interest that you must register or**
- **Affects the well-being or financial position of you, members of your family, or people with whom you have a close personal association, to a greater extent than it would affect other people in your ward or electoral division, or the ward or electoral division affected by the decision**

Confidence in local democracy

Prejudicial Interests – New Para 12(2)

A member with a prejudicial interest may make representations, answer questions and give evidence before leaving the room, provided that members of the public are allowed to attend for the same purpose

- Increases opportunity to express support or objections
- Members have same rights as members of the public
- Improves transparency: makes overt what was covert influence
- Encourage clear standing orders and procedural rules

Confidence in local democracy

Disclosure of confidential information

Under para 4(a)(iv) members may disclose confidential information where:

- reasonable and in the public interest and
- made in good faith and complies with the reasonable requirements of the authority

Members will need to:

- Ask ‘why is this confidential?’
- Raise concern through appropriate channels and seek advice
- Consider circumstances: relevant whistleblowing + FOI protocols

We will publish guidance on how to apply test

Confidentiality and
Data Protection
Guidance

Disrepute and private capacity conduct

- Local Government Bill reinstates pre-Collins position: the Code will once again apply to conduct in a private capacity
- But the Code limits that to criminal conduct that has led to a conviction

Confidence in local democracy

Adopting the Revised Code

- Adopt revised Code by 1 October 2007
- Encourage your authority to adopt early
- Include ten general principles with your local codes
- Parishes can adopt our Model Code of Conduct for Parishes including paragraph 12(2)

Confidence in local democracy

Supporting the change

- Provision of guidance and training materials
- Road shows in June + our Annual Assembly 15-16 October
- Check our website for updates:
www.standardsboard.co.uk

Confidence in local democracy

THE BULLETIN #33

May 2007

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Contact

Enquiries line: 0845 078 8181
www.standardsboard.gov.uk
email: bulletin@standardsboard.gov.uk

Welcome to Issue 33 of the Bulletin.

The new Code of Conduct has now come into force and we would urge authorities to adopt it at the earliest opportunity. The Standards Board for England welcomes this new Code, which addresses issues that emerged during the consultation process. We believe that it is now clearer and simpler to understand and that it will allow members to properly represent their constituents on matters that concern them.

Standards committees have a responsibility for ensuring that members within their area receive appropriate training on the new Code, so that they fully understand their obligations. This is an important function for them and an opportunity for authorities to demonstrate their commitment to high standards of probity and governance.

The Standards Board has published comprehensive guidance on the new Code on our website at www.standardsboard.gov.uk

Monitoring officers will also receive hard copies of the guidance soon. We will be producing a range of training materials, available from our website shortly, and a DVD which will be distributed in July.

The forthcoming roadshows being held around the country in June will provide an opportunity for us to find out your early views on the new Code and emerging themes. If you have not already booked your place on these roadshows, I would encourage you to do so soon as places are being filled quickly. Please visit our website or email roadshow2007@standardsboard.gov.uk for further details.

David Prince
Chief Executive



the Standards Board
for England

The new Code of Conduct

The revised Model Code of Conduct came into force on 3 May 2007. Authorities have until 1 October 2007 to adopt the Code formally. If an authority fails to adopt the Code before that date, the mandatory provisions of the Code will apply until the authority adopts its own Code.

There are a number of major changes to the Code and these are summarised below:

- The definition of a **personal interest** has been relaxed. Interests that are shared with most people in the ward or electoral division affected by the decision will not have to be declared. However, the definition will not change for many parishes or other authorities that do not have wards or electoral divisions.
- **Dual-hatted members** and those members appointed or nominated by the authority to outside bodies will also benefit from changes to the rules regarding declaration of interests. Where a matter that affects the other body is being discussed at a meeting of the authority, these members will not be required to declare that they have a personal interest in the matter before they vote, unless they wish to speak on the matter or where the personal interest is also a prejudicial interest.
- **Prejudicial interests** now only arise if a matter affects a member, their family, or their close associates in the following ways:
 - it relates to their finances or well-being
 - it concerns regulatory functions such as licensing or planning which affect them
 - and a reasonable member of the public with knowledge of the facts
- **Gifts or hospitality** over the value of £25 must now be included in the member's register of interests. This means that a personal interest must be declared at any meeting where a matter relating to that interest is discussed.
- The **unlawful discrimination provision** has been replaced by a duty not to do anything that may cause the authority to breach its statutory duties under equality laws (including anti-discrimination laws). As a result, discriminatory behaviour can now be dealt with through the Code.
- A new provision makes it clear that **bullying** is prohibited by the Code.
- Another new provision states that members must not **intimidate or attempt to intimidate** anyone involved in an investigation, such as a complainant, a witness or an officer involved in the conduct of an investigation.
- The Code does not incorporate the **Ten General Principles of Public Life** but

would believe their ability to judge the public interest would be impaired.

Even where members have a prejudicial interest, the Code supports their role as a community advocate and enables them, in certain circumstances, to represent the community and to speak on issues important to it and to the member. Paragraph 12(2) of the Code gives members with a prejudicial interest in a matter the same rights as members of the public to speak to a meeting on the matter. However, once they have done so, the member must immediately leave the meeting room, as currently required, and cannot remain in the public gallery to observe the vote on the matter.

members are required to read the Code together with these general principles. Although members are not legally obliged to observe the principles, a failure to follow them may indicate behaviour that could potentially breach the Code.

- Subject to the enactment of the Local Government and Public Involvement in Health Bill, the Code will apply where **criminal activity** has been committed in a private capacity, but not in relation to other conduct which solely concerns a member's private life.
- The ban on **disclosing confidential information** has been relaxed to allow disclosure of confidential information where:
 - the disclosure is made to a third party for the purpose of obtaining professional advice (provided that person agrees not to disclose it)
 - the disclosure is reasonable and in the public interest, made in good faith, and does not breach the reasonable requirements of the authority

The Standards Board's comprehensive guidance on the new Code of Conduct is available on our website at www.standardsboard.gov.uk

We will be sending printed copies of the guidance to all monitoring officers and parish clerks soon.

Adopting and amending the new Code of Conduct

The new Code of Conduct applies to the same range of authorities covered by the existing Code. However, only one composite Code has been made for different types of authorities. As a result, some paragraphs are

not mandatory for your authority, and particular wording within mandatory paragraphs may not be relevant to your authority. For example, some paragraphs refer specifically to executive arrangements and overview and scrutiny which parishes do not have, while other paragraphs expressly apply only to the Greater London Authority or Metropolitan Police Authority.

Councils may adopt a version of the Model Code that excludes non-mandatory provisions or wording that is not relevant to the particular authority, so long as it is consistent with the application of the mandatory provisions to that relevant authority. To avoid confusion and ensure consistency, we recommend that any amendments do not affect the subsequent numbering of paragraphs. To assist parish and town councils, we have prepared a 'Model Code of Conduct for Parish and Town Councils' which is available from our website.

If your authority simply adopts the Model Code, this means that it does not adopt the non-mandatory paragraphs for that authority. For example, paragraph 12(2) is not mandatory for parish and town councils, English and Welsh police authorities, the Greater London Authority, national park authorities, and fire and rescue authorities. Therefore, if these types of authorities wish to adopt paragraph 12(2), they will need to do so expressly. See also the article on page 4 *Special advice for parish and town councils adopting the new Code of Conduct*.

Advertising the new Model Code

As soon as your authority has adopted a revised Code of Conduct, it must send notification to the Standards Board and make copies available for inspection by the public. It must also publish a notice in a local newspaper, stating that the council has adopted a revised Code. The authority can also publish the notice in its own newspaper, if it has one, but this cannot be the only notice that is published.

This duty to publish a notice will again be relevant when the Model Code comes into effect. When the previous Code was introduced, some unitary and district councils organised combined notices for councils in their area. This can save money, especially where there are a large number of parish councils.

To enable a monitoring officer to coordinate a combined notice, parish clerks will need to ensure their councils adopt the revised Code quickly and confirm to the monitoring officer where copies of the Code can be inspected within the parish. This information can then be fed into the notice published in the newspaper.

If you are a local authority, the easiest way to notify the Standards Board of your adoption of the Code is to send an email to Kimberley Connell in our Policy and Guidance team at enquiries@standardsboard.gov.uk.

Special advice for parish and town councils adopting the new Code of Conduct

Parish and town councils can maximise their ability to exercise democratic rights under the new Code of Conduct by taking certain actions.

A new paragraph 12(2) gives elected members with a prejudicial interest the same rights as members of the public to speak to a meeting on the issue, but then leave before the main discussion and vote. This part of the revised Code does not automatically apply to parish and town councils.

It is not enough, therefore, for parishes to simply adopt the Model Code “as applicable to parish councils” – paragraph 12(2) is not mandatory for parishes. In order to take advantage of the amendment, parish councils will need to pass a resolution adopting the Model Code of Conduct including paragraph 12(2).

Each parish and town council wanting to take advantage of this provision should notify the Standards Board of the resolution passed and the date on which it was passed. This information can be sent electronically to Kimberley Connell in our Policy and Guidance team at enquiries@standardsboard.gov.uk.

We recommend: “to adopt the Model Code of Conduct for Members including paragraph 12(2), effective [insert ‘immediately’ or ‘specific date’]”.

The Standards Board also recommends that parishes should consider having standing orders in place to allow members of the public to attend meetings of the authority for the purpose of making representations, giving evidence or answering questions.

The revised Code gives councillors the same rights to speak as members of the public, but if an authority’s standing orders or procedural rules do not provide members of the public with these rights, or if an authority has no standing orders in place at all, paragraph 12(2) will have no effect.

This means that councillors with a prejudicial interest would have to leave a meeting after declaring the nature and extent of their interest, just as they have had to under the old Code of Conduct. They will not be able to take advantage of the freedom offered by the new Code to allow members with a prejudicial interest to speak in certain circumstances.

The Standards Board has prepared a ‘Model Code for Parish and Town Councils’ which is available from our website. It has been created to assist parish and town councils in adopting the relevant mandatory paragraphs and the ‘voluntary’ paragraph 12(2), while excluding paragraphs that are not relevant to parishes.

We urge monitoring officers to bring the above information to the attention of parish clerks.

Local investigations – update

There has been positive feedback to a number of changes to our criteria for referring investigations back to monitoring officers for local investigation:

- We now retain complaints for investigations where the allegation, if proven, would undoubtedly warrant the Adjudication Panel for England's penalties.
- We assess allegations against executive members on a case-by-case basis to decide if they should be investigated locally, and do not automatically retain such cases.
- We do not normally retain cases where a monitoring officer has a conflict of interest. We assume that an investigation can be delegated, outsourced or undertaken by a monitoring officer from another authority, but ethical standards officers exercise their discretion, especially in relation to monitoring officers from smaller authorities.

The Standards Board now has a local investigations co-ordinator who liaises with monitoring officers and other parties about the allocation and monitoring of local investigations. They can be contacted at local.investigationenquiries@standardsboard.gov.uk or on 0161 817 5372

Research findings

Thank you to those who returned questionnaires on the research undertaken by BMG Research entitled 'Study into the operation and role of standards committees within local authorities'. This research has now been completed and the full report can be found on our website at:

www.standardsboard.gov.uk/Aboutus/Research

The research is a survey of monitoring

officers and standards committees and has increased our understanding of your activities, the resources available to you, the challenges you face and the support you may need in the future.

Delegates quick to sign up to roadshows

Bookings for the summer roadshow events have been flooding in over the past month, with several venues nearly fully booked. The London event on 28 June has proved so popular that a second roadshow will be run in the morning at 10.00am, in addition to the one taking place in the afternoon.

There are still some places available for the roadshows, which are taking place at 11 venues across the country and are aimed at monitoring officers and standards committee members. For further details on when and where visit:

www.standardsboard.gov.uk/Events

To book a place on the earlier London roadshow or any of the other events please contact our event managers, Benedict Business Resources, on 01483 205 432 or email roadshow2007@standardsboard.gov.uk

Annual Assembly – Down to detail: Making local regulation work

We have already received a significant number of bookings for the Sixth Annual Assembly of Standards Committees in October, with over 400 delegates signed up to attend.

Phil Woolas MP, Minister for Local Government and Community Cohesion, will open the conference by outlining how to meet the challenges of the local filter system and the revised Code of Conduct. He will also set out the government's focus for the future.

There will be over 25 sessions covering issues such as the process and practice of managing the local filter, and a focus on

helping delegates to develop the skills and knowledge they need to deliver high standards of effective local governance.

Several sessions will address vital issues linked to managing the wider impact of the local filter and the revised Code. These will include training and hands-on workshops to help delegates focus on raising their authorities' standards to an even higher level. There will also be sessions on how to improve communication with stakeholders and confidently deliver effective local regulation.

An advanced copy of the conference programme is available at www.annualassembly.co.uk/Programme/

To book a place at the conference please contact our event managers, Benedict Business Resources, on 01483 205 432 or email annualassembly2007@standardsboard.gov.uk

Relocation and new contact details

The Standards Board has completed the key stage of our relocation from our offices in London to our new premises in Manchester. Our new details can be found below:

Fourth Floor
Griffin House
40 Lever Street
Manchester M1 1BB

Telephone: 0161 817 5300 (main switchboard)
Facsimile: 0161 817 5499

Web address: www.standardsboard.gov.uk

New director of casework and head of legal services

We are pleased to announce that two new heads of department have been appointed to oversee our Investigations and Legal Services teams.

Hazel Salisbury was appointed as the new director of casework in February.

Hazel brings with her a wealth of professional experience and a strong background in local government. She was admitted as a solicitor in 1987, and was later head of legal services and monitoring officer for Nottinghamshire County Council. Hazel also spent two years on secondment as monitoring officer at Lincolnshire County Council

Most recently, Hazel worked as a consultant in a private practice, providing member and monitoring officer training for local authorities.

Sara Goodwin took up the position of head of legal services earlier this month.

Sara was a lecturer in law at Leeds Metropolitan University for two years. She spent 12 years in the local government sector and is a former head of legal services and monitoring officer.

Most recently Sara worked as a consultant for SOLACE (the Society of Local Authority Chief Executives) providing support and monitoring officer training for local authorities.

Sir Anthony Holland, chair of the Standards Board said:

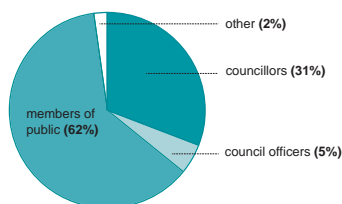
"We welcome both Hazel and Sara to the organisation. The Standards Board will benefit from the experience and knowledge that they have both have gathered over the many years they have spent working closely with local government. They will have an important role to play in establishing the new teams in Manchester and meeting the challenges ahead."

Referral and investigation statistics

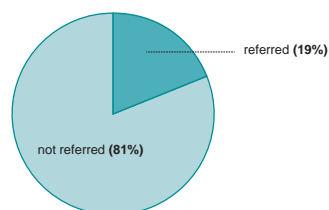
The Standards Board for England received 3549 allegations between 1 April and 31 March 2007, compared to 3836 during the same period in 2005/2006.

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

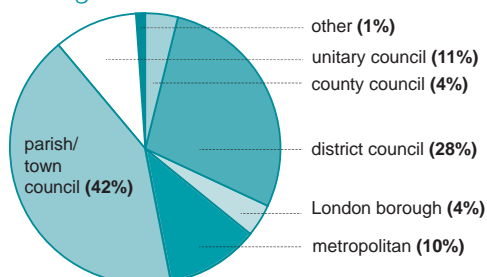
Source of allegations received



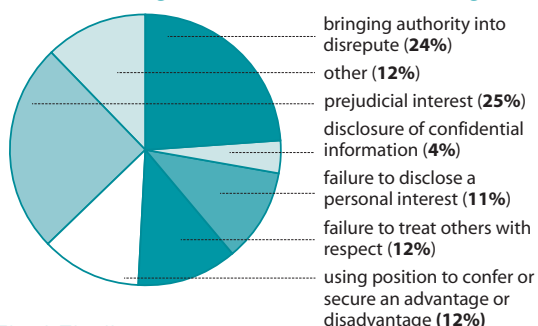
Allegations referred for investigation



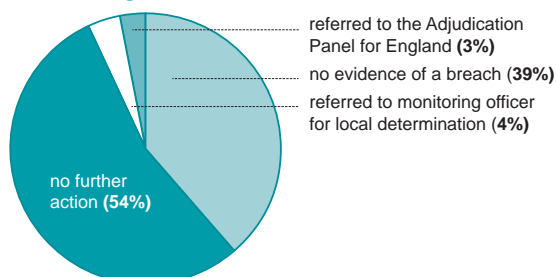
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



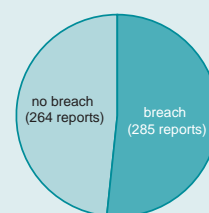
Final Findings



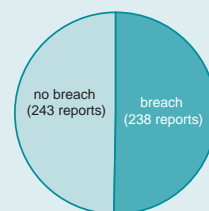
Local investigation statistics

Of all cases referred since April 2006 for local investigation we have received a total of 46 reports — please see below for a statistical breakdown of these cases. (NB: for the period 1 April- 31 March 2007, ethical standards officers referred 347 cases for local investigation — equivalent to 55% of all cases referred for investigation. Since 1 April 2006 there have been 18 appeals to the Adjudication Panel for England following standards committee hearings.)

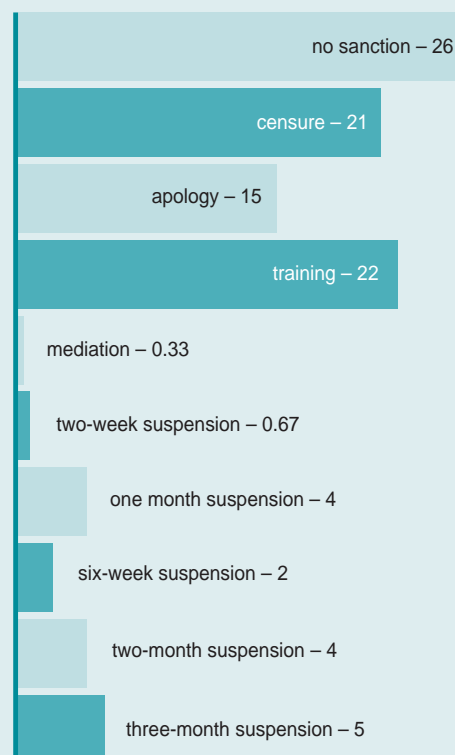
Monitoring officers' recommendations following local investigations



Standards Committee hearings



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THE BULLETIN #34

July 2007

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Contact

Enquiries line: 0845 078 8181
Minicom: 0161 817 5449
www.standardsboard.gov.uk
email: bulletin@standardsboard.gov.uk

Welcome to Issue 34 of the *Bulletin*.

The revised Code of Conduct was introduced two months ago and many councils across the country have now adopted it. Issues around adopting and advertising the revised Code are covered in this edition of the *Bulletin*, along with useful guidance on other provisions of the Code. The issues discussed fall into two broad groups, those relating to the adoption or transition from the old to the new Code, and those around its application.

In addition, we offer advice to authorities on having protocols in place for the release of confidential information by members. Robust authority protocols can assist in promoting and maintaining ethical standards and ensuring that confidential information remains protected where appropriate.

This issue of the *Bulletin* also examines those decisions by ethical standards officers to take no further action in a case, and how the referral of cases for investigation can be a stimulus to local action.

The Standards Board for England remains committed to providing guidance and support for authorities to implement and uphold the new Code. Hard copies of our guidance booklet for members have been distributed to all monitoring officers, and our training DVD is currently in the final stages of production.

We are also involved in a number of upcoming events, more details of which can be found later in this newsletter. We look forward to meeting as many of you as possible at these events and to hearing your feedback.

David Prince
Chief Executive



the Standards Board
for England

Issues surrounding the revised Code of Conduct

In the short time since the revised Code of Conduct was introduced, our Policy and Guidance advisers have identified a number of frequently asked questions. Further information on these common queries is supplied below.

Adoption of the new Code

As soon as your authority has adopted the revised Code, it must send notification to the Standards Board for England. The easiest way to do this is by sending an email to enquiries@standardsboard.gov.uk

This notification should clearly state:

- whether the model Code was adopted unamended or any amendments that have been made
- on what date the adoption occurred
- on what date the adoption comes into effect

A simple notification will usually suffice and your authority does not need to provide us with a copy of the entire Code it has adopted, unless you amend the mandatory provisions, or add extra provisions to suit local circumstances. We recommend that you obtain legal advice before adopting such amendments. This is to ensure that the provisions can be enforced and do not break any law or regulation.

Advertising your new Code

Under Section 51(6)(b) of the Local Government Act 2000, you must publish a notice in the local newspaper as soon as possible after your council has adopted a Code of Conduct. The notice should state that a Code has been adopted and that it is available to be seen by members of the public at all reasonable hours.

When the previous Code was introduced, some unitary and district councils organised combined notices for councils in their area. This can save money, especially where there are a large number of parish councils.

To enable a combined notice to be arranged, parish clerks will need to ensure that their councils adopt the revised Code quickly. They will also need to confirm to the monitoring officer where copies of the Code can be inspected within the parish. This information must be included in the notice published in the newspaper.

While the newspaper notice may take some time to coordinate, your authority must notify the Standards Board immediately after the adoption of the new Code. This should not be subject to coordinating several notifications at once and should be undertaken by each council without delay.

Amending paragraph 7 of the revised Code

Paragraph 7 says that members must have regard to advice from their monitoring officer or chief finance officer where they give it under their statutory duties.

This paragraph is not mandatory for parish councils. Therefore, parish councils may choose to adopt paragraph 7 as it applies to other types of authorities, adopt an amended version of paragraph 7, or leave paragraph 7 silent.

The Standards Board believes the last approach – leaving paragraph 7 silent – is preferable, and this is the approach used in our *Model Code of Conduct for Parish and Town Councils* which is available from our website. Paragraph 7 is drafted narrowly, and is limited to the statutory duties of the monitoring officer and chief finance officer. In our opinion, the wording of paragraph 7 does not translate appropriately to the parish context and may cause confusion among members and officers.

It has been suggested that parish councils should adopt a version of paragraph 7

referring to the need to have regard to the advice of the parish clerk. We do not support this amendment. Unlike monitoring officers and chief financial officers, clerks do not have statutory duties unless they also happen to be the authority's chief finance officer and are suitably qualified. Only in that case would it be appropriate for members to be required to have regard to a parish clerk's advice.

It would not be advisable to remove the limitation in paragraph 7 to statutory duties and simply include an obligation to have regard to all advice of your authority's clerk. In the Standards Board's view, this amendment would impose an unnecessary burden on members of parish councils to have regard to the clerk's advice and lead to unwarranted breaches of local Codes.

Registration of members' interests

The requirements for the register of members' interests are slightly different under the old and the new Codes. This means that members may need to complete a new form once an authority adopts the revised Code. However, this depends on the manner in which the information is already collected. As with the practice under the old Code, it remains a matter for each individual authority to review their existing procedures for collecting and maintaining this information.

Registering gifts and hospitality

It has been suggested to the Standards Board that rather than registering gifts and hospitality in the register of interests, the revised Code requires members to register the interests of people that give them gifts or hospitality. We believe this interpretation of the revised Code is incorrect.

The Standards Board believes that the revised Code requires members to register any gifts or hospitality worth £25 or over that the member received in connection with their official duties, and the source of the gift or hospitality. This must be done within 28 days of receiving the gifts or hospitality.

The source of the gift or hospitality affects whether you have a personal interest in any business of your authority where it relates to, or is likely to affect, the source's interests.

Where an obligation to declare your personal interest in any business arises solely from a gift or hospitality on the register, members are not required to declare the personal interest once three years have passed since the gift or hospitality was registered.

Any gifts or hospitality received more than 28 days before your authority's adoption of the revised Code do not need to be placed on the members' register of interests. However, we understand that some individual authorities require that members to do so. In the Standards Board's view, the revised Code does not apply retrospectively and so does not require earlier gifts and hospitality to be 'rolled over' onto the register of interests. These items should be retained on the register of gifts and hospitality maintained by monitoring officers under the old Code.

Cracking the Code: Event for parish councillors

The Standards Board for England is pleased to be supporting the National Association of Local Councils (NALC) with their major event for parish and town councillors. *Cracking the Code* will be held on 19 July 2007 at the Hilton Birmingham Metropole and will give councillors the chance to explore and discuss the new Code of Conduct. In a keynote address, David Prince, Chief Executive of the Standards Board, will talk about the implications of the new Code. He will also discuss the changes to the system which will result in all allegations about parish and town councillors being dealt with by the standards committee of their principal authority.

Other speakers from the Standards Board will talk about the new rules around personal and prejudicial interests, and the paragraphs in the Code that deal with bullying. Speakers from the Association of Council Secretaries and Solicitors (ACSeS) will be talking about the role of monitoring officers in advising and

supporting town and parish councillors, the changing role of standards committees, and confidentiality and the new Code of Conduct.

If you are a town or parish councillor and are interested in attending, you can find more information in the Conferences and Events section of the NALC website:
www.nalc.gov.uk

Disclosing confidential information: Authority protocols

Paragraph 4(a) of the revised Code of Conduct prohibits the disclosure by councillors of confidential information, or information believed to be of a confidential nature, except in a defined range of circumstances that includes disclosure in the public interest.

Disclosure in the public interest may be justified in the following limited circumstances, when **all** of the following four requirements are met:

- 1) the disclosure must be reasonable
- 2) the disclosure must be in the public interest
- 3) the disclosure must be made in good faith
- 4) the disclosure must be made in compliance with the reasonable requirements of the authority

The fourth requirement means that before making the disclosure a member must, in addition to considering the first three requirements above, comply with the authority's policies or protocols on matters such as whistle-blowing or member-officer relationships and confidential information.

The Standards Board recommends that authorities ensure they have such policies in place to cover the possibility of a member considering a release of information, and that they take steps to ensure that all councillors are familiar with the provisions.

Appropriate and robust authority protocols can assist in ensuring the protection of confidential information where appropriate, and in promoting and upholding high ethical standards more generally.

When no further action is required

Our ethical standards officers sometimes decide that no further action should be taken in a case. The Standards Board for England recently analysed these decisions, commonly known as "b findings".

A b finding may occur when an ethical standards officer is unable to conclude that a breach of the Code of Conduct has occurred, or in cases that are deemed insufficiently serious to justify a finding of further action.

The sample of cases analysed, from the 2006-07 financial year, showed that in a third of all cases attracting a b finding, evidence was not decisive enough to conclude a breach. A further 17% of cases with b findings were deemed insufficiently serious to pursue a course of disciplinary action.

In many other cases, however, the reason why no further action was initiated was because the necessary remedial steps had already been taken. This could mean that an apology had been made, training had been undertaken or interests had been registered.

The sample revealed that a remedy was already in place, or had been agreed, in 30% of cases attracting a b finding in the 2006-07 financial year. Such action and improvements often only come about after an allegation is referred for investigation by the Standards Board and would be unlikely to have occurred otherwise.

Rather than a b finding being a negative outcome, therefore, findings of no further action can often be seen as a tribute to the effectiveness of the Code of Conduct and its enforcement.

The Standards Board firmly believes that one of the measures of the Code's success is the improvement in the behaviour of councillors and remedies of past mistakes.

"That's a wrap!"

Filming for the Standards Board's new training DVD on the revised Code of Conduct has recently finished. The resulting film will show the exploits of Grant Austin and his fellow councillors and local authority officers as they prepare for a potentially explosive planning committee meeting.

The programme examines the rules about declaring interests, disclosing confidential information and bullying. Training sections are interspersed with the drama, and extras include scene selection and subtitles.

The DVD will be of particular value to new and continuing councillors who want to increase their understanding of certain parts of the Code.

Copies of the DVD will be sent to all monitoring officers in late July, and we look forward to hearing your feedback.

Predetermination or bias: An occasional paper

Predetermination and bias have proven to be both difficult and controversial issues for many members and monitoring officers. Although they are judge-made, common law issues, and not part of the Code of Conduct, the Standards Board has agreed to publish an occasional paper to help clarify the issues.

Based on advice from leading treasury counsel Philip Sales QC, the paper includes examples of where members are predisposed, and so can take part in a debate and vote, and where they are predetermined and their participation in a decision would risk it being ruled as invalid.

The paper will be available on our website, along with the full opinion from Philip Sales QC, at the end of July.

Events update

The Standards Board is looking forward to meeting you, answering your questions and listening to your feedback at a number of forthcoming events.

In addition to NALC's *Cracking the Code* event for parish councillors mentioned previously, we will be attending the conference of the Local Government Association from 3-5 July 2007 in Birmingham.

Places are also booking up fast for our Annual Assembly on 15-16 October entitled *Down to Detail: Making local regulation work*. The assembly will provide an in-depth look at putting local regulation and the new Code of Conduct into action and is a vital event for all those who work with the Code. Visit www.annualassembly.co.uk to book one of the remaining places and to find out more about the programme.



**Sixth Annual Assembly of
Standards Committees**

15-16 October 2007

**International Convention Centre,
Birmingham**

www.annualassembly.co.uk

As we write, we are in the midst of our series of 11 roadshows, held around the country throughout June. They have been a great tool for sharing advice and experience on implementing the changes to the Code, and how they will affect you and your authority. They have also allowed us to listen first-hand to your feedback, concerns and queries.

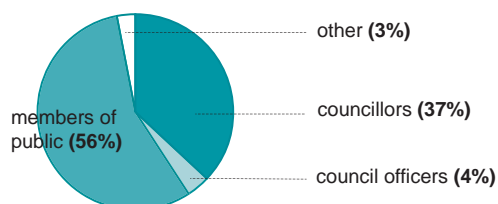
If you have a query about the Code of Conduct at any time, please contact our Policy and Guidance department at enquiries@standardsboard.gov.uk or on 0845 078 8181.

Referral and investigation statistics

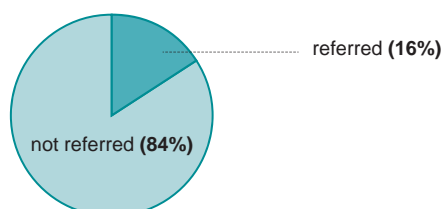
The Standards Board for England received 653 allegations between 1 April 2007 and 31 May 2007, compared to 605 during the same period in 2006.

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

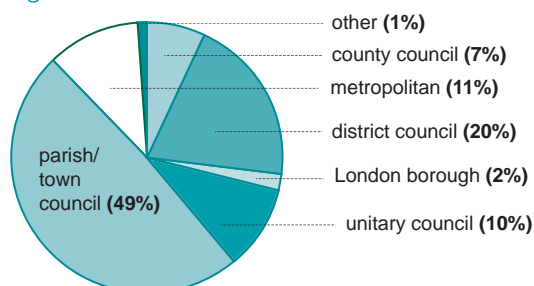
Source of allegations received



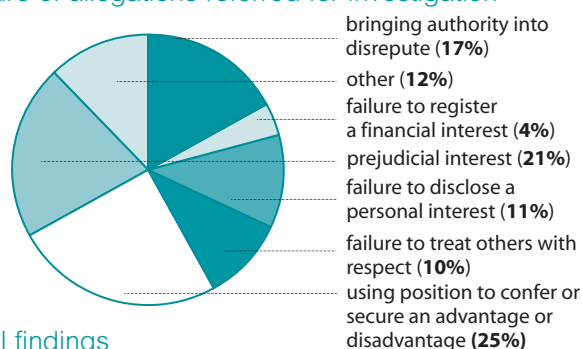
Allegations referred for investigation



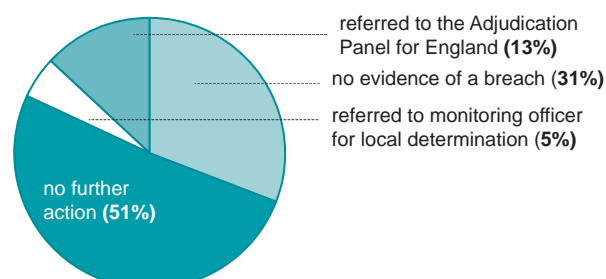
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



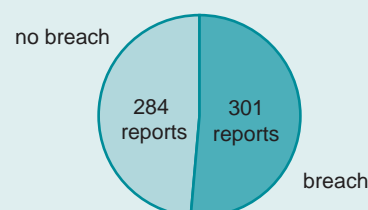
Final findings



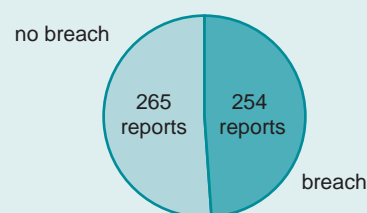
Local investigation statistics

For the period 1 April 2007 to 31 May 2007, ethical standards officers referred 66 cases for local investigation – equivalent to 65% of all cases referred for investigation. Since 1 April 2007 there has been one appeal to the Adjudication Panel for England following standards committee hearings. Of all cases referred since November 2004 for local investigation, we have received a total of 585 reports – please see below for a statistical breakdown of these cases.

Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations



Agenda Item 9

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

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