

Swindon Borough Council

Standards Committee

Monday, 21 January 2008

Committee Room 1, Civic Offices
(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 - 4)

4. Public Question Time

(See explanatory note below. Please phone the Committee Clerk whose name and

number appears at the top of this agenda if you need further guidance.)

5. Exempt Items - Exclusion of Press and Public

Certain items are expected to include the consideration of exempt information and the Standards Committee is, therefore, recommended to resolve "That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the items listed below, on the grounds that they involve the likely disclosure of exempt information, as defined in the respective paragraph of Part 1 of Schedule 12A of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

<u>Item No.</u>	<u>Paragraph No.</u>
10	1 and 2

6. Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England (DLDS-B) (Pages 5 - 54)

7. Review of Council Codes and Protocols (DLDS-B) (Pages 55 - 102)

8. Delivering Good Governance in Local Government (DLDS-B) (Pages 103 - 162)

9. Ethical Framework Update (DLDS-B) (Pages 163 - 178)

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

10. Ethical Framework Compliance Update (DLDS-B) (Pages 179 - 182)

11 January 2008 (being date of agenda despatch)

Key:

DLDS- B - Director of Law and Democratic Services
HIA-CE - Head of Internal Audit

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.

STANDARDS COMMITTEE

MONDAY, 29 OCTOBER 2007

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

Apologies for absence were received from Mr Paul Morris.

9. 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.

10. Minutes

Resolved – (1) That the minutes of the meeting held on 23rd July 2007, be confirmed and signed.

(2) That Mr Trevor Davies be thanked for presenting the Standards Committee's Annual Report to full Council on 27th September 2007.

11. Public Question Time

No public questions were received during the meeting.

12. Exempt Items - Exclusion of Press and Public

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 9 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 16 refers.)

13. Standards Board Training DVD - 'The Code Uncovered'

The Committee viewed the DVD 'The Code Uncovered' issued by the Standards Board for England as a training aid to highlight some of key changes within the new Code of Conduct, through a dramatised scenerio of a Planning Committee meeting,

Resolved – That the Monitoring Officer offer the use of the DVD as part of structured training sessions on the new Code of Conduct to Planning Committee Members, other Members, Officers and Parish Councillors.

14. Review of Council Codes and Protocols

The Committee considered a report of the Director of Law and Democratic Services, recommending that the Committee approve for consultation revised versions of the a) Monitoring Officer Protocol, b) Councillor Role Definitions, c) Guidance to Councillors on Dealings with the Media, d) Protocol of Member/Officer Relationships, and e) Members Planning Code of Good Practice, which had been amended to reflect the new Members Code of Conduct and the 'New Code of Good Governance in Local Government'.

In addition, the Committee received for consideration new Role Definitions for those roles which had responsibility allowances attached but no current role definitions; namely, the Standards Committee Chair and Independent Members, the Licensing Chair and Members, and Opposition Leaders.

Resolved – 1) That the revised Council Codes and Protocols be approved for consultation with Members, Officers and relevant stakeholders.

2) That the Monitoring Officer be authorised to carry out the necessary consultation and report back to the Committee at its next meeting in January 2008, to enable the revised Council Codes and Protocols to be adopted.

3) That the Monitoring Officer be authorised, in consultation with the Chair, to finalise the new Role Definitions for consultation, following receipt of any amendments from Standards Committee Members or post holders.

15. Ethical Framework Update

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

- i) Standards Board – The Committee received the Standards Board Bulletin for September 2007 (Issue 35) and the Town and Parish Standard for September 2007 and noted key areas of interest for the work of the Standards Committee. In particular, the Committee discussed the statistics showing that 80% of Town and Parish Councils had not been the subject of a Code of Conduct complaint. This proportion was broadly reflected in Swindon, and was to be welcomed. It was agreed that having regard to the various training sessions for parish councils which had been carried out by the Monitoring Officer over recent months, it was appropriate for the Committee to seek an assurance from parish councils in the Swindon area that they were fully conversant with the requirements of the Code and were receiving the support needed from the Monitoring Officer and the Committee. The Committee noted the headline feedback on the local filter pilots of which Swindon had been one of 38 local Standards Committees involved, and that the Committee would be one of twenty authorities taking part in the forthcoming pilot on monitoring and audit arrangements.
- ii) Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum – The Committee received the notes from the Forum held on 19th October and from the Co-ordinators Meeting held on 30th July. The Committee thanked Mr Trevor Davies for attending these meetings, and noted the discussions being held on potential implications of local filtering on local Standards Committees.
- iii) Annual Standards Board Conference – The Monitoring Officer reported back on the Conference held on 15th and 16th October 2007. It was noted that no indication had been given as to when the draft Regulations for the new local filter arrangements would be published, although the intention was for the arrangements to operate from April 2008.

- iv) Training and Development – The Monitoring Officer advised of a workshop for Members and Senior Officers which had been held on 29th September 2007, in conjunction with Learning and Development and the I&DeA, which identified a number of actions to support good member / officer relationships.
- v) Standards Committee Conference - The Committee supported the proposal for a conference on 'Ethical Standards in Partnership', to be held in the spring. The Monitoring Officer would contact Committee Members prior to the next meeting in regard to the arrangements.
- vi) Ethical Governance Healthcheck – The Monitoring Officer reported that he had recently acted as a Peer Reviewer on an I&DeA Ethical Governance Healthcheck of the London Borough of Lambeth. A number of learning points had arisen from the review which would be progressed, including the use of a local News Bulletin to advise the public of the work and role of the Standards Committee.

Resolved - 1) That the Ethical Framework Update be noted.

(2) That the Monitoring Officer provide to Mr Mike Compton a list of the Parish Councils where there had been only limited attendance at training events on the New Code of Conduct, for consideration by the Swindon Area Committee of the Wiltshire Association of Local Councils, on how they might provide further support and assistance.

(3) That the Monitoring Officer write to Parish Councils in the Swindon area seeking assurance that that they were fully conversant with the requirements of the Code and were receiving the support needed from the Monitoring Officer and the Committee.

(4) That the Monitoring Officer investigate use of an article in Swindon News or a similar publication to promote the work and role of the Standards Committee.

16. Ethical Framework Compliance Update

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) and the Head of Internal Audit, concerning the progress and outcome of various ethical framework compliance matters.

It was noted that two complaints relating to a Parish Council had been notified to the Standards Board for England since the last meeting, and the Standards Board had decided that neither complaint warranted further investigation. Two complaints relating to a Member breaching the Member / Officer protocol were being progressed by the Monitoring Officer in consultation with the Chair. The Committee also received an update on a whistleblowing case.

Resolved – (1) That the report in respect of ethical framework compliance issues be noted.

(2) That the success of whistleblowing complaint monitoring be noted and the Head of Internal Audit be requested to provide a schedule of the whistleblowing cases and outcomes dealt with during this year to the next meeting.

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Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England

Standards Committee

Date: 21 January 2008

Author: Director of Law and Democratic Services

Wards Affected: All

Purpose

- To consider the DCLG Consultation Paper 'Orders and Regulations Relating to the Conduct of Local Authority Members in England' and to agree the formal response.

Recommendation

- That the Director of Law and Democratic Services (Monitoring Officer) be authorised to respond to the Consultation Paper as set out in this report, subject to any further comments or amendments which may be made by the Committee

1. Reasons

- 1.1 It is appropriate for the Standards Committee to consider and comments on the arrangements for it to exercise its new functions, including local filtering and assessments of misconduct allegations and issue of dispensations.

2. Detail

Background

- 2.1 Part 10 of the Local Government and Public Involvement in Health Act 2007 amended the Local Government Act 2000 to provide for a revised ethical conduct regime for local government based on the principle of proportionate decision-making on conduct issues by local authorities.
- 2.2 The Department for Communities and Local Government (DCLG) has issued a Consultation Paper entitled 'Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England' on the detailed arrangements for putting into effect the orders and regulations to provide a revised more locally-based ethical regime. The consultation paper covers arrangements for:
 - ◆ The operation of Standards Committees' powers to make initial assessments of misconduct allegations.
 - ◆ The operation of other functions by Standards Committees and the Adjudication Panel in issuing penalties and sanctions.

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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- ◆ The operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime.
 - ◆ Other matters, such as the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority political assistants.
- 2.3 It is intended that these provisions would come into effect in Spring 2008, and comments are invited by 15th February 2008.
- 2.4 The Consultation Paper (attached at Appendix '1') poses sixteen questions on which the DCLG would welcome comments. Set out below is a view on each of these questions, which the Committee may wish to either adopt or take as the starting point for discussion.

Consultation Questions

Question 1

- 2.5 Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Comment:

- 2.6 **This proposal is supported in principle. The Standards Committee considers there is no reason why a member who has been involved in the assessment should not take part in any subsequent hearing. The assessment merely decides whether something merits further investigation and makes no determination or finding as whether or not there has been a breach of the Code.**
- 2.7 **In Swindon, the Standards Committee has previously referred a matter for investigation and has had that matter sent back to it for local determination by the ESO, and so has had experience of this issue.**
- 2.8 **The Standards Committee does not consider that the Regulations should be prescriptive in requiring formal standing sub-committees to be formed, and the Committee should be free to allow all members**

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of the Committee to take part in any Hearing. The devil will be in the detail in relation to those Regulations which address this issue.

Question 2

- 2.9 Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Comment:

- 2.10 **This proposal is supported. Although the Standards Board could usefully issue guidance, it should not have an adjudication role on this issue.**

Question 3

- 2.11 Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Comment:

- 2.12 **There should be no imposition of a statutory time limit in making initial decisions. Bearing in mind that under the current statutory agenda dispatch rules the Agenda would have to be sent out 5 clear days before the meeting, this would leave only 13 days to prepare any necessary papers for members if the 20 days mooted in the consultation paper is put forward as the appropriate timescale. Although the statutory rules as to circulation of documents may be eased, it will still be important that members have sufficient time to read the papers, and many councils have their own standing order requirements as to the agenda dispatch timetable.**
- 2.13 **Any guidance issued by the Standards Board should have regard to the practicalities of convening member meetings and the availability of members, as well as to the potential workload issues if there is a sudden increase in the volume or complexity of complaints.**

Question 4

- 2.14 Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the

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summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Comment:

- 2.15 It is considered that the Standards Committee should have discretion as to whether a written summary should be provided, and as to the level of detail to be put in a written summary.**
- 2.16 It is not considered helpful to be prescriptive as to the circumstances in which that discretion should be exercised, although Guidance from the Standards Board would be helpful so as to promote a level of consistency across the country.**

Question 5

- 2.17 Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?**

Comment:

- 2.18 The circumstances should not be prescribed as set out in the consultation paper. It is suggested that it will be preferable to allow the Monitoring Officer greater flexibility and provide in the regulations that s/he may refer an allegation back to the Standards Committee where s/he considers that there has been a material change in circumstances since the start of the investigation sufficient to justify a further assessment of the allegation by the Standards Committee.**

Question 6

- 2.19 Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?**

Comment:

- 2.20 This proposal is supported as it would give greater flexibility in the sanctions available to the Standards Committee.**

Question 7

- 2.21 Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing**
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functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Comment:

2.22 The Standards Committee sees no reason why the chair of the assessment panel need necessarily be ‘an independent member’. In some circumstances, for example where it is a complaint relating to a parish councillor of a parish on which there are no political groups, the panel could be chaired by another member of the Standards Committee.

2.23 As the Standards Committee considers that the chair of the assessment panel could chair a subsequent hearings panel, there need not be 3 independent chairs, which eases the practicality issue raised in this question.

Question 8

2.24 Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee’s decision to take no action should be exempt from the rules on access to information?

Comment:

2.25 This proposal is supported.

Question 9

2.26 Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee’s powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Comment:

2.27 The devil will be in the detail to be set out in the Regulations and, in particular, how Regulations will embody the suggestion in the consultation paper that the suspension of a standards committee’s powers will only be used as a last resort.

2.28 The suspension of an authority’s statutory powers is a grave matter. In relation to the process outlined in paragraph 43 of the consultation paper the notification should specify the particular areas of concern and set out what needed to be done to remedy the

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situation. The standards committee should then be allowed a period of time to comply and a formal inspection should then be carried out if the Standards Board still had concerns. These processes should be specifically included in the Regulations to be made.

- 2.29** The Standards Committee is concerned that a number of the criteria set out in the consultation paper would require the Standards Board to make subjective judgments as to the whether the number of successful requests to review an assessment is 'disproportionate'; whether 'reasonable' timescales have been breached; whether duties have not been carried out 'expeditiously'; and whether there has been 'repeated' failure to submit returns. Indeed the suspension of an authority's statutory powers due to a failure to submit periodic returns seems disproportionate in the extreme. The consultation paper makes no mention of any appeal mechanism which issue should also be addressed.

Question 10

- 2.30** Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Comment:

- 2.31** Swindon's Standards Committee does not agree that a nationally funded body such as the Standards Board should be able to levy such a charge. If this becomes a significant financial burden to the Standards Board, then the situation could be reviewed.
- 2.32** If authorities did agree between themselves for one of their standards committee to undertake such a role, then such authorities should be free to agree between themselves the terms of any financial compensation to be paid and the regulations should enable them to do this, rather than have a financial charging regime imposed on them by either the Secretary of State or the Standards Board.

Question 11

- 2.33** Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered

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by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Comment:

- 2.34 To date, Swindon's Standards Committee has not expressed any interest in pursuing joint working arrangements and has no experience of joint working. The Monitoring Officers of Wiltshire and Dorset, however, have experience of working together and arranging joint training for members of their standards committees.**
- 2.35 As the declared purpose of the new conduct regime is local determinations and local ownership, as well as local accountability, it is difficult to justify the principle of not having some geographical limit. This could, for example, be specified by reference to county boundaries.**
- 2.36 If local circumstances, however, favour joint working (for example, inability to recruit sufficient independent members) then Swindon's Standards Committee would favour the regulations enabling such matters to be agreed between authorities under arrangements analogous to those made under section 101 of the Local Government Act 1972. This would include authorities agreeing the precise requirements for a parish representative to be present.**

Question 12

- 2.37 Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to Standards Committees?**

Comment:

- 2.38 This proposal is supported. If the sanction imposed would require the Monitoring Officer's involvement, for example, in terms of any training requirement, it is suggested that the Monitoring Officer be consulted prior to the sanction being imposed.**

Question 13

- 2.39 Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate**

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for an ethical standards officer to withdraw a reference or an interim reference?

Comment:

2.40 This proposal is supported.

Question 14

- 2.41 Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Comment:

2.42 Swindon Borough Council's Standards Committee has not been asked to grant any dispensations. The Standards Committee supports the proposals set in paragraph 62 of the consultation paper.

Question 15

- 2.43 Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Comment:

2.44 The Standards Committee have no comments to make on this proposal.

Question 16

- 2.45 Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

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Comment:

- 2.46 No.** There is no obvious reason to set such an ambitious and challenging timescale. The recent experience of trying to rush through the introduction of the revised Members Code has shown that this is bad practice and does not allow for proper consideration of draft Rules and Regulations, or the issuing of accompanying Guidance.
- 2.47** It is suggested that 1st June 2008 would be more achievable, and it is considered more sensible to implement the new regime at the start of the Municipal Year rather than the end of one so that the proper appointments to Committees can be made by Annual Council and there is time to recruit additional independent members of Standards Committees, and increase the size of the Committees, if necessary.
- 2.48** Further, in order to enable local capacity to be built up, the new conduct regime could be put in place by 1st June 2008 with a duty on each authority to adopt its provisions within 6 months thereafter so that the regime was fully in place by 1st January 2009. This would be analogous to the provisions relating to the introduction of the code of conduct as set out in section 51 of the Local Government Act 2000.

Conclusion

- 2.49** Overall, the proposals are to be welcomed and it is suggested that the Director of Law and Democratic Services (Monitoring Officer) be authorised to respond to the Consultation Paper along the lines indicated, subject to any additional comments of Members.

Alternative Options

- It is open to the Committee not to respond to the consultation paper.

Risk Management

Financial and Procurement Implications

- There may be some increased costs to the authority associated with carrying out additional local filtering hearings, which would be met from the Committee Meetings budget or members allowances budgets as appropriate. There may also be additional costs if required to carry out hearings on behalf of a neighbouring authority, although the consultation paper also makes proposals on how some of these costs might be recharged to the appropriate Local Authority if it is a result of a suspension of their powers.

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- Currently the costs of using external investigators has been procured for a capped rate of £1,500, although this is likely to increase. These costs are normally met from the External Audit Fees budget. It is not known if a move to local filtering will affect the number of cases reaching investigation.

Legal / Human Rights Implications

- The Orders and Regulations proposed will give effect to the provisions of Part 10 of the Local Government and Public Involvement in Health Act 2007.

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

- Ensuring that appropriate structures are in place for effective 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 on all reports.
- The Chief Executive
- The Group Director, Business Transformation
- The Conservative, Labour and Liberal Democrat Groups, and Councillor Glaholm.

Background Papers and Appendices

- Appendix 1 – DCLG Consultation Paper - 'Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England', January 2008.

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Orders and Regulations Relating to the Conduct of Local Authority Members in England Consultation

Orders and Regulations Relating to the Conduct of Local Authority Members in England Consultation

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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Chapter 1

Introduction

1. We are consulting on the detailed arrangements for putting into effect orders and regulations to provide a revised ethical regime for the conduct of local councillors in England.
2. Part 10 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) provides for a revised ethical conduct regime for local government based on the principle of proportionate decision-making on conduct issues by local authorities. We wish to make arrangements for these provisions to come into effect in Spring 2008, and to seek views on how the detailed rules should work in practice.
3. The paper also consults on other undertakings relating to the operation of the regime in respect of the political restrictions imposed on certain local government posts and the maximum pay of political assistants. We are also taking the opportunity to consult on proposals to amend the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002, with a view to resolving concerns which have been raised by some local authorities on the operation of some aspects of the current provisions.
4. This consultation follows extensive earlier consultation on the basic principles on which the revised conduct regime for local government should be based. The Discussion Paper *'Standards of Conduct in English Local Government: The Future'*, of December 2005, set out the Government's responses, regarding the reform of the regime relating to standards of conduct of local government, to the recommendations of the Committee on Standards in Public Life, the report of the then Office of the Deputy Prime Minister Select Committee and the Standards Board. The Local Government White Paper, *'Strong and Prosperous Communities'*, issued in October 2006, outlined the Government's proposals to introduce a more proportionate and locally based decision-making regime for the investigation and determination of all but the most serious of misconduct allegations against members of local authorities.
5. Our most recent consultation with regard to the conduct regime was a six week consultation between January and March this year on amendments to the model code of conduct for local authority members, which resulted in a revised model code being introduced with effect from 3 May 2007.

6. For the new, reformed ethical regime based on a devolutionary approach to become operational, we need to make regulations and orders under the Local Government Act 2000 (the 2000 Act) as amended by Part 10 of the 2007 Act to implement the proposals set out in the Local Government White Paper to deliver a more locally based conduct regime for local government members, with local standards committees making initial assessments of misconduct allegations and most investigations and determinations of cases taking place at local level.
7. We now need to put in place detailed arrangements to allow standards committees and the Standards Board to undertake their new roles under the new regime. These arrangements need to cover:
 - The operation of standards committees' powers to make initial assessments of misconduct allegations.
 - The operation of other functions by standards committees and the Adjudication Panel in issuing penalties and sanctions.
 - The operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime.
 - Other matters, ie the rules on the issue of dispensations, the issue of exemptions of posts from political restrictions and the pay of local authority political assistants.
8. The paper sets out for each of these issues in turn the specific purpose of the provisions, the proposals for how the rules should operate via appropriate regulations and orders under the 2000 Act, and seeks views on the proposals, including highlighting particular questions on which consultees' comments would be welcome (summarised at Annex A).
9. We aim to undertake a separate consultation shortly on amendments to the instruments setting out the general principles which govern the conduct of local councillors and the model code of conduct, which members are required to follow.

Position of Welsh police authorities

10. The new ethical conduct regime providing for the initial assessment of misconduct allegations by standards committees will not apply to Welsh police authorities. The initial assessment of allegations in respect of members of Welsh police authorities will therefore continue to be a matter for the Public Services Ombudsman for Wales and not local standards committees. The proposals referred to in this paper in respect of joint standards committees will also not apply to Welsh police authorities. However, the rules on the size, composition and procedures of standards committees and the proposed amendment to the dispensation regulations will apply to these authorities.

11. We are asking for comments on this paper by 15 February 2008. This effectively gives consultees six weeks to respond. This reflects the period normally allowed for consultation with local government in the Framework for Partnership between the Government and the Local Government Association. As mentioned above, significant consultation has already been undertaken about the principles underpinning the new reformed regime and the approach to be adopted in the regulations and orders under the new regime.

12. Comments should be sent to:
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 Local Democracy and Empowerment Directorate
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by **15 February 2008.**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Chapter 2

New standards committee powers to make initial assessments of misconduct allegations, composition of committees and access to information

Purpose

1. Regulations will need to be made to amend and re-enact existing provisions in the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and to amend and re-enact the provisions of the Relevant Authorities (Standards Committee) Regulations 2001, to make provision:
 - with respect to the exercise of the new initial assessment functions by standards committees of relevant authorities in England;
 - as to the powers and validity of proceedings of standards committees, including notification requirements;
 - with regards to the publicity to be given to matters referred to monitoring officers of local authorities;
 - in relation to the way in which any matters referred to the monitoring officer of a local authority by a standards committee should be dealt with;
 - to enable a standards committee to refer a case to the Adjudication Panel (ie the independent body which decides whether in the more serious cases the code of conduct has been breached and what sanction, if any, should be applied to the member) where the standards committee considers that the sanctions available to it would be insufficient;
 - with respect to the size and composition of standards committees and access to meetings and information.

Proposals

- a) **Standards committee members and initial assessment**
2. In order to undertake their new functions for making initial assessments of misconduct allegations and considering requests to review decisions to take no action, under powers conferred by Part 10 of the 2007 Act, as well as existing powers for standards committees to make determinations of allegations, each standards committee will need to have a clear operational structure. It is likely that there will be a need for sub-committees of standards committees to be created, so that the separate functions involved in the ethical regime for local authority members can be appropriately discharged, namely:

- The initial assessment of a misconduct allegation received by a standards committee under section 57A of the 2000 Act.
 - Any request a standards committee receives from a complainant to review its decision to take no action in relation to the misconduct allegation under section 57B of the 2000 Act.
 - Any subsequent hearing of a standards committee to determine whether a member has breached the code, and where appropriate impose a sanction on a member.
3. Standards committees will need to minimise the potential risk of failing to conduct the above processes appropriately. In order to do this and ensure fairness for all parties in the operation of the ethical regime, we propose that the regulations should prohibit a member of a standards committee who has taken part in decision-making on the initial assessment of an allegation under section 57A of the 2000 Act, or considered an allegation which has been referred back to the standards committee by a monitoring officer or ethical standards officer, from being involved in the review of any subsequent request from the complainant under section 57B of the 2000 Act for a review of the committee's decision to take no action. The most obvious way of achieving this would be to require sub-committees of the standards committee to exercise the different functions.
4. However, we are aware of the resource implications of prohibiting members of standards committees from undertaking certain functions of the ethical regime and the problems this may cause for local authorities. Accordingly, we propose that members of a standards committee who have been involved in the initial assessment of a misconduct allegation, or a review of a standards committee's previous decision to take no action, should not be prohibited from taking part in any subsequent hearing by the standards committee to determine whether that matter constituted a breach of the code of conduct and, if so, whether any sanction is appropriate.

Question

Q1. Does our proposal to prohibit a member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

b) Members of more than one authority - parallel complaint procedures

5. We are aware that the introduction of the regime for the initial assessment of misconduct allegations may raise an issue with regard to what should happen if a misconduct allegation is made against an individual who is a member of more than one authority (known as a dual-hatted member) and, as such, may have failed to comply with more than one relevant authority's code. For example, an individual who is a member of a district council and a police authority, may be the subject of allegations that he or she has breached the code of both authorities. As such, it would be possible for both the standards committee of the district council and the police authority to receive allegations against the member.
6. Such a situation could lead to inconsistencies in how allegations are dealt with, as one standards committee could decide that no action should be taken with regard to an allegation, whilst another standards committee could refer the allegation for investigation. In addition, to the inconsistencies that this situation may create, there is the issue of a member being subject to an investigation in relation to the same allegation more than once. One potential option for avoiding such a situation would be for the regulations to require that where an allegation of misconduct is made to two separate standards committees, for those committees to decide which one of them should consider the matter, and in default of agreement for the allegation to be referred to the Standards Board who could then decide how it should be dealt with.
7. However, in the spirit of the new devolved conduct regime, we consider that decisions on whether to deal with a particular allegation should be taken by standards committees themselves, following discussion with each other and taking advice as necessary from the Standards Board. This would enable a cooperative approach to be adopted, including the sharing of knowledge and information about the local circumstances and cooperation in the carrying out of investigations to ensure effective use of resources.
8. Two standards committees might, for example, consider it would be appropriate for both of them to consider similar allegations or the same allegation against the same individual, and even to reach a different decision on the matter. Under the new locally based regime standards committees will be encouraged to take into account local factors which affect their authorities and communities. Allegations of misconduct constituting a particular criminal offence might, for example, be taken more seriously by a standards committee of a police authority, than of another type of authority. And this could lead to the two standards committees reaching a different decision on the matter.

Question

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

c) Publicising the new initial assessment procedure

9. In order to ensure that people are aware of the existence of the new ethical regime and the local arrangements for how to make a misconduct allegation, we propose to include in the regulations a requirement that each standards committee should publish a notice detailing where misconduct allegations should be sent after the new regime has commenced. We also propose that the regulations should require a standards committee to use its best endeavours to continue to bring to the public's attention the address to which misconduct allegations should be sent, as well as any changes in those arrangements.
10. We propose that the Standards Board for England will then issue guidance on the content of the notice, and on how the requirement for the standards committee to provide appropriate information on the regime may be met, including, for example, advertising in one or more local newspapers, a local authority's own newspaper or circular and the authority's website.

d) Guidance on timescale for making initial assessment decisions

11. In order to achieve sensible consistency in the way allegations are dealt with across local authorities, we think it is appropriate for good practice guidance by the Standards Board to indicate the time scale in which a standards committee would be expected to reach a decision on how a misconduct allegation should be dealt with, for example 20 working days, as well as to provide other guidance to assist standards committees in complying with the timescale.
12. Since it is our intention that the new ethical regime should be implemented by light-touch regulation, we do not propose that such a deadline is prescribed by regulations accompanied by any statutory penalty for failure to meet the time scale. Our proposal is that the Standards Board, in considering the operation of the ethical regime by authorities would take into account the overall compliance each authority has demonstrated with the guidance, including guidance on the timetable for action, so that lack of compliance with the timescale on its own would not of itself trigger intervention action by the Board. This kind of regime would suggest that it would be preferable if the timescale was retained as part of the guidance rather than imposed as a statutory requirement.

Question

Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

e) Requirement for a standards committee to provide a written summary of an allegation to the subject of the allegation

13. To ensure that the ethical regime is fair and transparent for all parties, new section 57C(2) of the 2000 Act requires a standards committee to take reasonable steps to give a written summary of an allegation it receives to the person who is the subject of it. This will make sure that he or she knows what the allegation is. However, we consider that there may be certain circumstances where it may not be appropriate for a standards committee to provide information to the subject of an allegation at the time it receives the allegation. We wish to provide by regulation that where the standards committee forms the reasonable view that it would be in the public interest not to provide the written summary, it would have the discretion to defer doing so. We propose to provide that standards committees would be required to take into account advice on the withholding of information provided by the monitoring officer and guidance from the Standards Board. The regulations can stipulate when the duty to provide the summary must be complied with. We propose that the obligation to provide the summary should normally arise after a decision is made on the initial assessment, but in cases where the concerns referred to above apply, it should instead arise after the monitoring officer or ethical standards officer has carried out sufficient investigation, but before any substantive hearing of a case against the subject of the allegation.
14. Guidance from the Standards Board would give advice on the circumstances in which a standards committee would be entitled to operate its discretion to defer giving the written summary of the allegation. This guidance might include taking such action in the following circumstances.
 - Where the disclosure of the complainant's personal details or details of the allegation to the person who is the subject of the allegation, before the investigating officer has had the opportunity to interview the complainant, may result in evidence being compromised or destroyed by the subject of the allegation.
 - Where there is the real possibility of intimidation of the complainant or witnesses by the subject of the allegation.
15. Where a standards committee is relieved of the duty to give a written summary of an allegation to a member, it might exercise its discretion to give some more limited information to the member for example by redacting certain information, if this would not prejudice any investigation.

Question

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

f) Requirement for a standards committee to give notice of decisions under section 57A and 58 of the 2000 Act

16. In addition to the requirement outlined in the above section, the 2000 Act, as amended, requires a standards committee and the Standards Board to 'take reasonable steps' to give written notice of a decision to take no further action, including the reasons for its decision, to the complainant and the subject member. In addition, a standards committee is required to notify the subject of an allegation, if it receives a request from the complainant to review its decision to take no action regarding a misconduct allegation.
17. We propose that guidance issued by the Standards Board will set out best practice for committees including practice with respect to the notification of a complainant, a subject member or any other appropriate person of the progress of the handling of the allegation. We propose that such guidance would include advice that the Standards Board or the standards committee should take reasonable steps to notify the complainant and the subject member where:
 - the Standards Board decides under section 58 of the 2000 Act, to refer a matter back to the relevant standards committee or refer the allegation to an ethical standards officer for investigation;
 - a standards committee decides to refer a matter to another relevant authority under section 57A(3) of the 2000 Act, to the Standards Board under section 57A(2)(b) of the 2000 Act or the monitoring officer under section 57A(2)(c) of the 2000 Act; or
 - a monitoring officer decides to refer a matter back to a standards committee under section 57A of the 2000 Act. Such a notice may include the reasons why a monitoring officer has decided to refer the case back.

g) References to monitoring officers under section 57A(2)(a) of the 2000 Act

18. Section 57A(2)(a) of the 2000 Act, provides that a standards committee may refer an allegation it receives to the monitoring officer of the authority. We propose to provide for the monitoring officer to be able to investigate and make a report or recommendations to the standards

committee. However, in addition, we propose to provide in the regulations that when a standards committee refers a case to a monitoring officer it may also direct the monitoring officer that the matter should be dealt with otherwise than by investigation. Dealing with an allegation other than by investigation would allow the monitoring officer the discretion, assisted by guidance from the Standards Board, to tackle the problem identified in ways such as the provision of training or mediation to the particular member or making amendments to the authority's internal procedures, for example, arrangements for the provision of training to all members.

19. Enabling a standards committee to refer a case to the monitoring officer for action other than investigation is intended to address situations where the standards committee considers that a case has relevance for the ethical governance of the authority, eg where there are disagreements between members or cases of repeated poor behaviour, which do not require a full investigation, but where a committee feels that some action should be taken.

h) References to monitoring officers – procedure for referring allegations back to a standards committee

20. We propose to set out in the regulations the circumstances where a monitoring officer may refer an allegation back to the standards committee under section 66(2)(f) of the 2000 Act, and the procedure for doing so. We propose that such a referral would apply in the following circumstances:
 - where, during an investigation or following a referral for action other than investigation, evidence emerges that, in the monitoring officer's reasonable view, a case is materially either more serious or less serious than originally seemed apparent, which might mean that, had the standards committee been aware of that evidence, it would have made a different decision on how the matter should be treated;
 - where a monitoring officer becomes aware of a further potential misconduct allegation which relates to the matter he or she is already investigating. In such circumstances, the monitoring officer may refer the matter back to the standards committee to decide on how the new matter should be treated;
 - where the member subject to the allegation has resigned, is terminally ill or has died.
21. With regard to the procedure which a monitoring officer must observe when referring an allegation back to a standards committee, we propose to set out in the regulations that where a monitoring officer refers back an allegation to a standards committee he or she must send written notification of his or her decision to refer a case back and the reasons for the decision to the relevant standards committee. In such

circumstances, the standards committee will then be required to undertake a further assessment of the allegation and reach a decision under section 57A(2) to (4) of the 2000 Act.

Question

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

i) Referral of matters from a standards committee to the Adjudication Panel for England for determination

22. With the introduction of the more locally based conduct regime, we consider that it is likely that standards committees will be required to make determinations in respect of more serious cases, which are currently dealt with by the Standards Board, its ethical standards officers and subsequently referred to the Adjudication Panel. We consider that providing a standards committee with the right to refer to the Adjudication Panel, where it considers that a breach of the code may merit a sanction higher than that available to the committee, will allow any sanction imposed to match the level of seriousness of the breach of the code.
23. We propose that it would be a matter for the standards committee to make a decision following the receipt of the monitoring officer's report that, if the member was found to have committed the breach, the appropriate sanction would be higher than that which the standards committee would be able to impose. Such a provision would ensure that the subject of the allegation would not be required to face both a standards committee hearing and then a separate hearing of the Adjudication Panel in respect of the same allegation.
24. In order to ensure that standards committees only refer the most serious cases to the Adjudication Panel, we propose to provide in the Regulations that the Adjudication Panel may refuse to accept a referral from a standards committee under certain circumstances, for example, where the Adjudication Panel does not consider, on the face of the evidence, that the matter would attract a sanction of greater than that currently available to standards committees.

j) Increase the maximum sanction available to standards committees

25. As stated above, with the introduction of the more locally based conduct regime, we consider that standards committees will be required to consider more serious cases. Accordingly, we propose to increase the maximum sanction which a standards committee can impose on a member who it has found to have breached the code from a three months partial suspension or suspension to six months.

Question

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

k) Composition of a standards committee and sub-committees of standards committees

26. Section 53(4) of the 2000 Act requires that a standards committee should be chaired by a person who is neither a member nor an officer of a relevant authority ("an independent member"). The existing rules relating to independent members will continue to apply so that the independent member must not have been a member or officer of the authority within the previous 5 years. As indicated earlier, committees are likely to appoint sub-committees in order to undertake the three separate functions involved in the ethical regime for local authority members:
- The initial assessment of a misconduct allegation (section 57A of the 2000 Act).
 - Any review of a decision to take no action (section 57B of the 2000 Act).
 - A hearing to determine whether a member has breached the code and whether to impose a sanction.
27. In order to maintain the robustness and independence of decision-making, we consider that it is important for an independent member to chair each of the sub-committees discharging each of the functions listed above.
28. We propose that the rules should remain as currently provided under the Relevant Authorities (Standards Committee) Regulations 2001 with regard to the size and composition of standards committees (including providing that where a committee has more than three members, at least 25% of them should be independent), and on the proceedings and the validity of the proceedings of committees and sub-committees (including that a meeting should not be quorate unless there are at least three members present).

Question

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

I) Public access to information on decisions on initial assessments of allegations under section 57A and reviews under section 57B

29. We consider that it would not be appropriate for a meeting of a standards committee to undertake its role on making an initial assessment under section 57A to be subject to rules regarding notices of meetings, circulation of agendas and documents and public access to meetings, as set out in the Relevant Authorities (Standards Committees) Regulations 2001. We take the view that it would not be appropriate for the above rules to apply to meetings which make the initial assessment decisions, as they may be considering unfounded and potentially damaging allegations about members which it would not be appropriate to make available to the general public. Currently, the Standards Board does not publish any information about cases that it does not decide to refer for investigation, which may include, for example, cases which are malicious or politically motivated. Consistent with this approach, we do not take the view that it would be appropriate to give such allegations of misconduct any publicity during the initial assessment phase.
30. For similar reasons, we also do not consider that a standards committee's function of reviewing a decision to take no action regarding a misconduct allegation should be subject to the access to information rules in respect of local government committees.
31. Accordingly, we propose that initial assessment decisions under section 57A of the 2000 Act, and any subsequent review of a decision to take no action under section 57B of the 2000 Act, should be conducted in closed meetings and should not be subject to notice and publicity requirements under Part 5A of the Local Government Act 1972. This approach was supported strongly by those authorities who participated in the Standards Board's recent initial assessment pilot schemes.

Question

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Chapter 3

The Standards Board's new monitoring function and the circumstances where it may suspend a standards committee's function of undertaking the initial assessment of misconduct allegations and for other committees or the Standards Board or joint committees to undertake this role

Purpose

32. Under the new locally based ethical regime, the Standards Board will provide guidance and support to standards committees and monitoring officers on undertaking their new roles and will monitor their performance to ensure consistency of standards across the country.
33. In order to support this role, the Standards Board will be putting in place monitoring arrangements to ensure that the local regime is operating efficiently and effectively. This will involve authorities completing periodic online returns in relation to the cases they handle and producing an annual report, which the Standards Board will monitor. The Board's monitoring will be undertaken against a series of criteria which they will set out in guidance.
34. The Board's approach has been developed in consultation with a range of local authorities and the aim is to provide support for authorities in ensuring the efficient operation of the local regime and to be easy for authorities to use. The information gathering system will enable the Standards Board to analyse the information received in order to identify and share good practice, which will assist authorities in assessing and improving their own performance. It will also allow the Standards Board to identify those standards committees and monitoring officers who are encountering difficulties in undertaking any aspect of their roles, as well as to identify how to assist them to improve their performance.

Proposals

35. Section 57D of the 2000 Act provides that the Standards Board may, in circumstances prescribed by regulations by the Secretary of State, direct that a standards committee's function of undertaking the initial assessment of misconduct allegations be suspended until the Board revokes such a suspension. The Standards Board's decision on whether to suspend a standards committee's initial assessment function will be made on a case-by-case basis and will be informed by information gathered by the Board about the performance of standards committees and monitoring officers. The Board's consideration of the suspension of a committee's powers may be triggered by one or a number of circumstances such as:

- a breakdown of the process for holding hearings;
 - a disproportionate number of successful requests to review a standards committee's decision to take no action;
 - repeated failure to complete investigations within reasonable timescales;
 - repeated failure to carry out other duties expeditiously, including repeated failures to comply with the proposed 20 working days deadline for making an initial assessment of an allegation;
 - failure to implement standards committee's decisions; or
 - repeated failure to submit periodic returns to the Standards Board under section 66B and information requests under section 66C.
36. In circumstances where a standards committee's initial assessment functions have been suspended, the standards committee must refer any misconduct allegation it receives to the Standards Board or a standards committee of another relevant authority in England, with its consent, to undertake the initial assessment function.
37. Our aim is that the Standards Board should use its power to suspend a standards committee's initial assessment functions only as a last resort, and after strenuous attempts to improve the authority's performance have failed, resulting in the committee's failure to operate an effective initial assessment process. The Standards Board will endeavour to provide support, guidance and advice to local authorities throughout.
38. As there are numerous circumstances in relation to the performance of the ethical regime which may lead the Standards Board to direct that a standards committee's initial assessment function be suspended, we propose that the regulations should allow for any circumstances where the Standards Board is satisfied that a suspension of the standards committee's functions would be in the public interest. In operating this discretion, the Board would be required to have regard to the range of factors set out in paragraph 35, above.

Question

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Arrangements for undertaking initial assessments

a) Circumstances where the initial assessment functions may be undertaken by another standards committee

39. Section 57D(2) of the 2000 Act provides that where the initial assessment function of one authority has been suspended, that function may be undertaken by the standards committee of another authority. We propose to allow for such arrangements to be made where the Standards Board and the receiving standards committee agree that it would be appropriate. Provision would also be made to allow a committee to withdraw from such an agreement if it chose to. We will make regulations as necessary, to facilitate such arrangements.

b) Possibility of providing for the Standards Board or standards committees to charge those standards committees which have had their initial assessment functions suspended for undertaking those functions on their behalf

40. Because of the impact which a transfer of responsibility for initial assessment to another standards committee could have, one option might be to allow an authority or the Standards Board to levy a charge against the authority whose standards committee has had its initial assessment functions suspended, to meet the cost of carrying out its functions.

41. There is no express provision in the 2000 Act dealing with the imposition of charges and we do not intend at this stage to make any provision to provide for any.

42. However, we would be grateful for views from consultees about whether the ability to charge a fee to recover the costs of undertaking another committee's role would contribute to the effective operation of the new ethical regime. For example, allowing a charge for the recovery of costs for undertaking the initial assessment role may help to encourage high performing standards committees to agree to undertake another standards committee's functions during the period that its functions are suspended. Such an approach may also encourage standards committees to undertake their responsibilities under the 2000 Act efficiently and effectively, in order to avoid having to pay the costs of another authority taking over their role if their functions are suspended.

Question

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

c) Proposed procedures for the suspension of a standards committee's initial assessment functions and the re-instatement of those functions

43. In relation to the procedure which the Standards Board should follow when using its power to direct that a standards committee's initial assessment function is suspended, we propose that the Regulations should set out the following requirements and procedures.

- Before a direction to suspend, the Standards Board should send the authority's chief executive a written notice of intention to suspend the functions of the standards committee. Copies of this would be sent to the person who chairs the standards committee and the monitoring officer. The notice may include any recommendations and directions aimed at improving the performance of a standards committee.
- The Standards Board will exercise the suspension power under section 57D of the 2000 Act by written direction, sent to the relevant authority's chief executive and copied to the person who chairs the standards committee and the monitoring officer. The standards committee's functions will be suspended from the date specified in the written notice of direction from the Standards Board. Under that section, the Standards Board may direct that the standards committee must refer any misconduct allegations for action either to the Board itself or to the standards committee of another authority if that committee has consented.
- A direction to suspend the local assessment function may be revoked where the Standards Board is satisfied that the suspension should cease based on evidence and undertakings given by the relevant standards committee. The revocation takes effect from the date specified in the notice of revocation.
- The standards committee should be required to publicise the fact that their power to make initial assessments has been suspended and what alternative arrangements will apply for the handling of misconduct allegations, including the fact that new allegations will be dealt with elsewhere, in one or more local newspapers. Where a committee's power to make initial assessments is reinstated, the committee should similarly be required to publicise the arrangements which will apply for handling allegations following the reinstatement.

44. During a suspension, we envisage that the Standards Board should maintain communication with the monitoring officer and the standards committee chair, as well as other relevant people within the authority, in order to develop an action plan for improving the authority's performance. The aim of the action plan will be to set out the action which the standards committee and the monitoring officer need to take which would then justify the reinstatement of the standards committee's functions in the shortest possible time. We consider that the authority should be required to demonstrate improvement, through evidence, in its ability to discharge its functions under the Act. We propose that the Standards Board will provide various types of support throughout the process including, but not limited to, giving advice and guidance, sharing best-practice or participating in peer reviews, advising that training be undertaken or that a relevant authority enter into joint working arrangements with other local authorities.
45. In order for a standards committee's functions to be re-instated as soon as practically possible, the Standards Board will require cooperation from the suspended authority to ensure the Section 57A, 57B and 57C functions can be carried out. We propose to include within regulations governing the functions of standards committees an obligation to co-operate with the Standards Board during any period of suspension of its initial assessment functions, and to have regard to guidance issued by the Standards Board regarding the re-instatement of those functions, as a means to promote and maintain high standards of conduct, including the publication by the standards committee of a notice of any decision by the Standards Board to suspend the committee's functions or to revoke such a decision.

d) Joint working

46. In order to promote more effective ways of working, we propose to enable a standards committee to work jointly with one or more other standards committees in exercising their new functions under the local decision-making regime for allegations of misconduct, which might allow, for example, for more efficient use of common resources and aid the sharing of information, expertise, advice and experience.

i) Functions applicable for joint working

47. In common with the wishes expressed by many standards committees in recent pilot exercises on joint working run by the Standards Board, we wish all standards committees' functions to be available for joint working, but for each standards committee to decide which of the ethical regime functions it would like to operate jointly with other standards committees. For instance, the majority of those authorities involved in the pilots intended only to operate jointly the initial assessment functions under section 57A of the 2000 Act, whilst other authorities expressed an interest in extending joint arrangements to cover the holding of hearings and determinations of whether a member has breached the code.

ii) Structure and procedural rules of joint standards committees

48. Following the results from the joint working pilot, we believe relevant authorities may best establish joint standards committees within schemes which reflect the regulatory requirements, and which are agreed by each participating local authority. The regulations will specify the functions in relation to which joint working arrangements may be made. Guidance from the Standards Board will give advice on the content of these arrangements, including:
- size of joint committee, number of independent members and independent chair (ie to follow the rules on the size and composition of individual standards committees)
 - residual functions retained by standards committees (if any)
 - process for dissolution
 - process for appointment of members of a joint standards committee, including independent members and parish representatives
 - process for individual relevant authorities to withdraw from the joint standards committee
 - the appointment of a lead monitoring officer for the joint standards committee or outline division of monitoring officers duties between the relevant authority monitoring officers
 - payment of allowances
 - arrangements for where the Standards Board suspends the functions of the joint standards committee
49. Guidance issued by the Standards Board will help local authorities decide what joint arrangements might be suitable for them. The options available would include the creation of a joint committee which would undertake all the functions of the individual committees, which could be particularly appropriate and represent a sensible use of resources for single purpose authorities, who are the source of fewer complaints than other authorities. Alternatively, agreements would be possible to allow one or more of committees' functions, ie the initial assessment of allegations, the review of a decision to take no action or the determination hearing, to be undertaken by the joint committee. In either model, it would be possible for the joint committee to establish sub-committees to deal with particular functions.

50. Regulations will make clear that joint standards committees are bound by the same rules and procedures that apply to standards committees. However, we believe an exception should be made in relation to the requirement that a parish representative be present when a matter relating to a parish council in the relevant authority's area is discussed. For joint standards committees, this requirement should be satisfied if a parish representative from any parish in the area covered by the joint standards committee is in attendance. That is, it is not necessary for the parish representative to come from the area of the particular parish a member of which is the subject of the matter being considered.

Question

Q11. Would you be interested in pursuing joint working arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Chapter 4

Adjudications by case tribunals of the Adjudication Panel

Purpose

51. To extend the range of sanctions available to case tribunals of the Adjudication Panel, to prescribe the circumstances in which a reference to the Adjudication Panel following an investigation or an interim report by an ethical standards officer may be withdrawn, and to make provision for a case tribunal to give notice of its decision that a member has breached the code to a standards committee and to prescribe the purpose and effect of such a notice.

Proposals

a) To extend the range of the sanctions available to a case tribunal of the Adjudication Panel

52. To ensure that a tribunal has a full range of sanctions available to it in cases where it has found that a member has breached the code, we intend to make available to a tribunal a wider range of less onerous sanctions equivalent to those already available to standards committees (which are contained in regulation 7 of the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003, as amended by regulation 8 of the Local Authorities (Code of Conduct)(Local Determination)(Amendment) Regulations 2004)). We consider that they should be available to a tribunal of the Adjudication Panel when reaching a decision on which sanction it should impose, so that the seriousness of the breach of the code can be matched by the level of the sanction imposed. We intend to make regulations which will enable a case tribunal to impose sanctions including the censure of the member, the restriction of the member's access to the premises of the authority and the use of the authority's resources, and a requirement for the member to undertake training or conciliation.
53. The full range of sanctions which we propose to make available to the Adjudication Panel is as follows:
 - No sanction should be imposed.
 - Censure of the member.
 - Restriction for a period of up to 12 months of the member's access to the premises of the authority and the member's use of the resources of the authority, provided that any such restrictions imposed on the member –

(a) are reasonable and proportionate to the breach; and

(b) do not unduly restrict the member's ability to perform his functions as a member.

- Requirement that the member submits a written apology in a form specified by the case tribunal.
- Requirement that the member undertake training as specified by the case tribunal.
- Requirement that the member undertake conciliation as specified by the case tribunal.
- Suspend or partially suspend the member for a period of up to 12 months or until such time as he or she submits a written apology in a form specified by the case tribunal.
- Suspend or partially suspend the member for a period of up to 12 months or until such time as he or she undertakes such training or conciliation as the case tribunal may specify.
- Suspend or partially suspend the member from being a member or co-opted member of the relevant authority concerned or any other relevant authority for up to 12 months or, if shorter, the remainder of the member's term in office.
- Disqualify the member from being or becoming a member of that or any other authority for a maximum of 5 years.

Question

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

b) Withdrawing references to the Adjudication Panel

54. We propose to prescribe in the regulations that an ethical standards officer may withdraw a reference to the Adjudication Panel in certain circumstances. These would include circumstances where:

- after the ethical standards officer has determined that the case should be referred to the Adjudication Panel for adjudication, further evidence emerges that indicates that the case is not as serious as thought originally so that, in the ethical standards officer's view, there is no longer any justification for presenting the case to the Panel;
- a penalty imposed by another body meant the Adjudication Panel could do no more (for example, a sentence of imprisonment of three months or above for a related or non-related offence which would disqualify the member from office for 5 years); or

- the pursuit of the case would not be in the public interest, such as where the member accused has been diagnosed with a terminal illness or has died.
55. Before an ethical standards officer withdraws a reference to the Adjudication Panel, we propose that the regulations should require the ethical standards officer to notify the complainant, the subject of the allegation and the monitoring officer of the relevant authority of the proposed withdrawal. These people would therefore have the opportunity to make representations to the ethical standards officer in advance of the final decision of the withdrawal of the case being taken. We would also provide that the consent of the President of the Adjudication Panel would need to be obtained before a case could be withdrawn. We propose equivalent provision as regards the referral of interim reports from ethical standards officers to the Adjudication Panel.

Question

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

c) Decision notices of case tribunals of the Adjudication Panel

56. We propose to ensure, through regulations, that the rules relating to the suspension of a member who has been found to have breached the code by the Adjudication Panel are consistent with those which already apply in respect of disqualification.
57. Where a case tribunal of the Adjudication Panel decides that a member has breached his or her authority's code and that the breach warrants the suspension of that member, there is a requirement for the case tribunal to issue a notice to the relevant local authority. Currently, the effect of the suspension notice, unlike an Adjudication Panel's notice to disqualify a member, is not to put into effect the suspension of the member but instead merely to give notice to the standards committee that the person has failed to comply with the code of conduct. Accordingly, the local authority which receives a suspension notice from the Adjudication Panel must currently take action actually to suspend the relevant member. Section 198 of the 2007 Act amends the 2000 Act in respect of the decisions of case tribunals in England. This allows the Secretary of State to make regulations which provide for the effect that any notice issued by the case tribunal is to have. We propose to prescribe that in the case of the issue by the case tribunal of any notice, the effect of the notice will in future have the effect set out in the notice so that no further action is needed by the relevant authority before the notice can come into effect.

58. We also propose that a notice from the Adjudication Panel should have immediate effect, unless otherwise stated, and that the notice should give information on what breach of the code has been found and the sanction imposed. We propose that the notice should be sent to the chairman of the standards committee and copied to the monitoring officer and the member who is the subject of the notice. We propose that, consistent with current practice, the fully reasoned decision of the tribunal is provided to the above people within two weeks of the decision being taken.

Chapter 5

Issuing dispensations to allow councillors to participate in meetings so as to preserve political balance

Purpose

59. It is proposed to amend the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 ("the Dispensations Regulations"), to clarify the rules relating to standards committees granting dispensations to members of local authorities.

Proposal

60. Some local authorities have from time to time expressed concern about the current drafting of the Dispensations Regulations, the effect of which is to allow standards committees to grant dispensations from the prohibition of a member to participate in any business where: more than 50% of the members participating would otherwise be prevented from doing so, and where the political balance of the committee would otherwise be upset.
61. Some authorities have identified the following concerns in the operation of these regulations:
- Regulation 3(1)(a)(i) provides that a dispensation may be issued where the number of members of the authority prohibited from 'participating in the business of the authority' exceeds 50% of those entitled or required to participate. It is claimed that this reference to an entitlement to participate is ambiguous, since in some authorities all members are entitled to attend all committee meetings. The reference to the entitlement to participate in meetings could be replaced with reference to the number of members able to vote on a particular matter.
 - Regulation 3(1)(a)(ii) refers to the inability of the authority to comply with section 15(4) of the Local Government and Housing Act 1989. Since that section relates to the appointment of members to committees, and not to the attendance of members at committees it is suggested that what is meant by the term "not able to comply with any duty" under that section of the 1989 Act is ambiguous and might be clarified. Additionally, it could be clarified that the regulations are intended to deal with situations where a majority on a committee would be lost; the intention is not that they should aim to retain the precise political balance on each committee.

- The reference to section 15(4) could be interpreted as allowing dispensations to be granted in relation to committees but not in relation to full council meetings, where issues of political balance can be of concern particularly where there are hung councils or councils with small majorities.
62. To address these concerns, we propose to amend the regulations to make it more clear that they have the following effect:
- A standards committee should be able to grant dispensations if the effect otherwise would be that the numbers of members having the right to vote on a matter would decrease so that a political party lost a majority which it previously held, or if a party gained a majority which it otherwise did not hold
 - It should be possible to grant a dispensation if the matter is under discussion at a committee or at a meeting of the full council.

Question

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposal to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Chapter 6

The granting and supervision of exemptions of certain local authority posts from political restrictions

Purpose

63. The purpose of the regulations is to prescribe that a local authority which is not required to establish a standards committee, should establish a committee to exercise functions in respect of the granting and supervision of exemptions from political restrictions.

Proposals

64. Section 202 of the 2007 Act inserts a new section 3A into the Local Government and Housing Act 1989 to provide that the granting and supervision of exemptions of posts from political restrictions should be a matter for relevant local authorities' standards committees. There are, however, some authorities subject to requirements with regard to politically restricted posts which are not required to establish standards committees. The only such authorities of which we are aware are waste disposal authorities.
65. In order to ensure that such authorities are able to make decisions on the exemption of certain posts from political restrictions, in accordance with section 3A of the Local Government and Housing Act 1989, we propose that those relevant authorities which are not required to have standards committees should establish committees to undertake this function. We propose to provide in the regulations that the rules regarding the minimum number of members the committee should have, the proportion of members who should be independent and the requirement to have an independent chair, which apply to standards committees, as set out in the 2000 Act, as amended, and the regulations discussed above regarding standards committees should also apply to the committees of these authorities.
66. This provision should not prevent these types of authorities from instead discharging their responsibilities with regard to the granting and supervision of exemptions from political restrictions by entering into agreements with other authorities to carry out this role on their behalf, under section 101 of the Local Government Act 1972. We propose therefore that authorities should have the option of which of the above approaches to take, so that it would only be in circumstances where the authority has not made arrangements for the discharge of this function by another authority that it would be required to set up its own committee to undertake the function itself.

Question

Q15. Do think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989, to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Chapter 7

Other Issues

(a) Maximum pay of local authority political assistants – results of earlier consultation

Purpose

67. The purpose of the proposed order is to specify the point on the local authority pay scale which will serve as the maximum pay for local authority political assistants.

Proposals

68. In August 2004, the then Office of the Deputy Prime Minister published the *Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – A Consultation Paper*. In the paper we invited views on the pay arrangements for political assistants. There was a consensus among consultees in favour of linking the maximum pay for political assistants to local government pay scales. Various spine points on the local government scale were suggested as the maximum which should apply, and many suggested spine point 49. Authorities did not suggest that further payments such as London weighting should be added on top of the proposed maximum rate.
69. Accordingly, we propose that the order should set the maximum pay for local authority political assistants at point 49 on the National Joint Council for Local Government Services pay scale (currently £39,132 pa). Local authorities will be able to pay remuneration including any allowances to their political assistants provided remuneration to any individual does not exceed the overall rate represented by spine point 49 from time to time in force.

(b) Effective date for the implementation of the reformed conduct regime

70. We propose that those arrangements referred to in this consultation paper which will implement the reformed conduct regime for local councillors will be implemented no earlier than 1 April 2008. We are aware that this is the date which many authorities have been working to, and that there is an expectation by many in the local government world that the amendments will commence on this date. Feedback from authorities to the Standards Board has suggested that many authorities wish the revised framework to be put in place as soon as practically possible.

Question

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Annex A: Summary of questions

Your views

We would welcome your views on the issues covered by this consultation paper and any other comments and suggestions you may have.

Questions

The specific questions which feature throughout the text of this paper are reproduced for ease of reference:

Q1. Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Q11. Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Q15. Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Comments should be sent by e-mail
or post by **15 February 2008** to:
William Tandoh
Department for Communities and Local Government
Local Democracy and Empowerment Directorate
5/G10 Eland House
Bressenden Place
London SW1E 5DU
e-mail: william.tandoh@communities.gsi.gov.uk

Annex B: The Consultation Criteria

1. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form.
2. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (for example, under European Union law), they should otherwise be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.
3. The criteria are:
 - a. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
 - b. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - c. Ensure that your consultation is clear, concise and widely accessible.
 - d. Give feedback regarding the responses received and how the consultation process influenced the policy.
 - e. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
 - f. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.
4. The full consultation code may be viewed at http://www.cabinetoffice.gov.uk/regulation/consultation/consultation_guidance/the_code_and_consultation/index.asp#codeofpractice
5. Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process, please contact:

David Plant, Head of Better Regulation Unit,
 Department for Communities and Local Government,
 Zone 6/H10, Eland House, Bressenden Place, London SW1E 5DU

e-mail: David.Plant@communities.gov.uk

Review of Council Codes and Protocols

Standards Committee

Date: 21 January 2008

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

Wards Affected: All

Purpose

- To report back to the Committee on the results of the consultation on the Council's Codes and Protocols and that the revised Council Codes and Protocols be adopted.

Recommendation

- That the Committee considers the changes to the Council Codes and Protocols resulting from the consultation with Members, Officers and relevant stakeholders, and adopts the revised Council Codes and Protocols.

1. Reasons

- 1.1 It is the role of the Standards Committee to adopt or recommend adoption of amendments to the Council's ethical framework.

2. Detail

- 2.1 The Council adopted the new Members Code of Conduct at the Annual Council meeting on 18th May 2007, following the recommendation of the Standards Committee.
- 2.2 It was recognised at the time of adoption that it would be necessary to review other Council Codes and Protocols, which relate to Members' Conduct to reflect the changes in the Code. The Committee at its meeting on 29th October 2007 agreed revisions to the following Codes for consultation:
 - Monitoring Officer Protocol
 - Councillor Role Definitions
 - Guidance to Councillors on Dealings with the Media
 - Protocol of Member / Officer Relationships
 - Members Planning Code of Good Practice
- 2.3 The following groups and individuals have been consulted on the changes to the Codes and Protocols:
 - Borough Councillors
 - Parish Councils
 - Group Directors

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.

Review of Council Codes and Protocols

Standards Committee

Date: 21 January 2008

- Directors (including PCT Joint Directors)
- Head of Internal Audit
- Head of Communications
- Chief Executives Staff Officer
- Political Assistants
- Capita (except Planning Code)
- Planning Committee (only Planning Code)
- Developers Forum (the forum will be consulted on the Planning Code on 17th January and therefore any recommendations from the forum will be advised to the Committee at the meeting).

2.4 The Codes and Protocols are attached at Appendix 1, with the suggested changes resulting from the consultation period shown in bold and underlined. Any additional comments received will be advised by the Monitoring Officer at the meeting.

2.5 It is recommended that subject to any subsequent changes agreed by the Committee, the revised Codes and Protocols be adopted.

Alternative Options

- None

Risk Management

Financial and Procurement Implications

- There are no direct financial or procurement implications

Legal / Human Rights Implications

- There are no direct Legal/Human Rights implications. It is considered that any interference with human rights would be proportionate.

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
- Those listed in paragraph 2.3.

Background Papers and Appendices

- Appendix 1 – Revised Codes and Protocols for adoption

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.

Codes and Protocols For Review

Monitoring Officer Protocol (pages 2 – 3)

Councillor Role Definitions (pages 4 – 23)

Guidance to Councillors On Dealings with the Media (pages 24 – 25)

Protocol of Member / Officer Relationships (pages 26 – 33)

Members Planning Code of Good Practice (pages 34 – 45)

MONITORING OFFICER PROTOCOL
Adopted by the Standards Committee as from 3rd December 2003
(Reviewed 18 April 2005)

- 1 The Monitoring Officer undertakes to discharge his or her responsibilities outlined in this paper with determination and a manner which will enhance the reputation of the Council. In general terms his or her ability to discharge these duties depends on excellent working relations with colleagues and members but also the flow of information and access to debate particularly at early stages.
- 2 The following arrangements and understandings between the Monitoring Officer and colleagues and members are designed to help ensure the effective discharge of their functions:
 - (a) If not a member of the Corporate Board, the Monitoring Officer will have advance notice of those meetings and agenda and reports, and the right to attend and speak.
 - (b) Advance notice of any meeting whether formal or informal between the Chief Executive, Group Directors or Directors and members of the Executive or Committee Chairmen will be given to the Monitoring Officer where any procedural, vires or other constitutional issues are likely to arise.
 - (c) The Chief Executive, Group Directors and Directors will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
 - (d) The Monitoring Officer or his/her staff will have copies of all reports to members.
 - (e) The Monitoring Officer is expected to develop good liaison and working relations with the Standards Board, the District Auditor and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
 - (f) The Monitoring Officer will have a special relationship with the Chairman of the Council, Chairman of the Standards Committee and Overview and Scrutiny Committees and will ensure the Head of Paid Service and Chief Financial Officer have up-to-date information regarding emerging issues.
 - (g) The Monitoring Officer will be expected to make enquiries into allegations of misconduct in the absence of a written complaint being received by the Standards Board and if appropriate will make a written report to the Standards Committee unless the

Monitoring Officer and Chair of Standards Committee agree a report is not warranted.

- (h) The Head of Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other matters of concern regarding probity.
- (i) In carrying out any investigation (whether under Regulations or otherwise) the Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of their functions.
- (j) The Monitoring Officer will have control of a budget sufficient to enable him to seek Counsel's opinion on any matter concerning their functions.
- (k) The Monitoring Officer will be responsible for preparing a training programme for members on the ethical framework subject to the approval of the Standards Committee.
- (l) The Monitoring Officer will report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation in particular with the Head of Paid Service and Chief Financial Officer.
- (m) In consultation with the Mayor, the Chair of the Standards Committee, the Leader of the Council, the Head of Paid Service, and the Chief Financial Officer, the Monitoring Officer may defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved.
- (n) The Monitoring Officer will make a report to the Council from time to time as necessary on the staff, accommodation and resources they requires to discharge his/her functions. |
- (o) The Monitoring Officer will appoint a deputy and keep him or her briefed on emerging issues.
- (p) The Monitoring Officer will make arrangements to ensure good communication between his/her office and Clerks to Parish Councils.

Councillor Role Definitions

LEADER OF THE COUNCIL

ROLE PURPOSE:

To be the senior political spokesperson for the Council and the executive cabinet.

To provide political leadership to the Council.

To provide community leadership and together with the Mayor to promote Swindon as a whole and act as a focal point for the community.

DUTIES AND RESPONSIBILITIES:

To work with other cabinet members and the officers of the Council to:-

1. Effectively communicate the Cabinet and Council policies.
2. To provide political leadership in the development of policy options, including the setting of targets.
3. To ensure policies accord with corporate strategy, and ensure coherence across all policy areas.
4. To maintain staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions.
Generally to promote Swindon Council as a model employer with a firm commitment to equality of opportunity.
5. To lead political debate and make recommendations to Council on the overall priorities and the distribution of resources and the setting of the Council's budget.
6. To have overall responsibility within the Cabinet for the budget.
7. To make executive decisions which have been delegated to Cabinet members solely in accordance with the procedure set out in the Constitution.
8. To monitor progress towards policy objectives.
9. To liaise with other bodies/partners at political/policy level and representatives of the community and represent the Council's best interests.
10. To represent the interest of Swindon locally, regionally and nationally and take on such representative and civic duties as may be required and to act as an advocate for Swindon.

11. To assist and advise, where necessary, Councillors pursuing constituency issues.
12. To represent the Cabinet.
13. As appropriate, to act as the spokesperson for the Cabinet in connection with overview and scrutiny matters.
14. To lead the work of the Cabinet, its programmes and priorities.
15. To act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community and to promote and support these principles by leadership and example. This will include acting within any agreed Councillor protocols.
16. To assist with the training and development of political colleagues.
17. To liaise with the Chief Executive and other key staff on a regular basis and to provide formal policy guidance and support.
18. To provide guidance and support to Cabinet colleagues as appropriate in relation to their portfolios.
19. To undertake periodic reviews of the portfolios and the allocation of portfolios to Cabinet colleagues.

CABINET ROLE DEFINITION

CABINET MEMBER FOR

ROLE PURPOSE:

1. Under the leadership of the Leader of the Council:-
 - (a) to act as the political spokesperson for the Council and the Cabinet for the portfolio set out below;
 - (b) to contribute fully as a member of the Cabinet.

PORTFOLIO: (As appropriate)

DUTIES AND RESPONSIBILITIES:

To work with other Cabinet members and the officers of the Council:-

1. To research and develop policies/strategies within the designated portfolio.
2. To ensure the policies accord with Cabinet and Swindon Council corporate strategies and to ensure consistency across all policy areas.
3. To maintain staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions. Generally to promote Swindon Council as a model employer within a firm commitment to equality of opportunity.
4. To assist with the monitoring of policy objectives against targets and ensure work undertaken offers best value.
5. Liaise with other bodies/partners in the identified areas of interest and to publicly represent the best interests of Swindon Council.
6. To support the leader of the Council and the Cabinet generally.
7. To liaise with the Chief Executive and other key staff and provide informal policy guidance and support.
8. To undertake work associated with other portfolios as required.
9. To communicate and regularly update Cabinet colleagues and any recognised overview or scrutiny group.
10. Assist with the training and development of political colleagues.
11. To act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community, and to promote

and support these principles by leadership and example. This will include acting within any agreed Councillor protocol.

12. To accept Cabinet responsibility for the decisions of the Cabinet and its members in all matters and to advocate these, as necessary, on behalf of the Cabinet.
13. To make executive decisions which have been delegated to Cabinet members solely in accordance with the procedure set out in the Constitution.
14. To assist the Leader of the Council in the preparation of annual budget proposals and consultations.
15. To challenge services to deliver excellent Value for Money (VFM) characterised by high performance and costs which demonstrate best value compared to similar councils.

COUNCILLOR ROLE DEFINITION NON-EXECUTIVE (BACKBENCH) COUNCILLOR

Role Purpose:

1. To take part in the "good governance" of Swindon.
2. To help to form, develop and scrutinise Swindon Council's policies, budgets, strategies and service delivery.
3. To represent effectively the interests of the Ward for which elected and to deal with constituents enquiries and representations.
4. To promote the causes which reflect the best interests of the Ward for which elected, and of Swindon.
5. To campaign for the promotion of the social, economic and environmental well-being of the Ward for which elected, and of Swindon.

Duties and Responsibilities:

To work with other Councillors and officers of the Council:-

1. To meet the statutory requirements of an elected member of a local authority, including compliance with all relevant codes of conduct.
2. To fully take part in the activities and decision-making role of the Council.
3. To fully take part in any committee or other forum to which appointed by the Council.
4. To fully take part in the activities of any outside body to which appointed and to provide a means of two-way communication between that organisation and the Council.
5. To develop a working knowledge of the Council's policies and practices.
6. To develop a working knowledge of the Council's departmental and management structure, management arrangements, powers and duties and constraints and to develop good working relationships with relevant officers of the Council.
7. To take part in overview and scrutiny and performance review of the services of the Council to ensure that they are effective in achieving both [Value for Money](#) "~~Best Value~~" and Swindon Council's strategic policy objectives.

8. To take part, as appointed, in consultative processes with the community and other partners and stakeholders.
9. To represent Swindon Council to the community, and the community to Swindon Council, through the various methods available [and, in particular, to work with Parish Councils in parished areas, and community groups in non-parished areas.](#)
10. To represent constituents interests to the Council and Swindon Council's interests to constituents.
11. To develop a working knowledge of the organisations, services, activities and other factors which impact on the well-being of the Ward for which elected and of Swindon in general.
12. To contribute to open government and to the development of increased local democracy through the active encouragement of all sections of the community to participate in the "governance" of Swindon.
13. To participate in the activities of any political group of which the Councillor is a member.
14. To act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community, and to promote and support these principles by leadership and example. This will include acting within any agreed Councillor protocol.

COUNCILLOR ROLE DEFINITION
NON-EXECUTIVE (BACKBENCH) COUNCILLOR
OVERVIEW AND SCRUTINY
Role Purpose:

Under the direction of the relevant Overview and Scrutiny Committee:-

1. To assist in the scrutiny of the management and policy implementation of Swindon Council (and others) and to recommend changes and improvements.
2. To assist in the monitoring of service performance and budgets.
3. To assist in the monitoring of the achievement of ~~"Best Value"~~[Value for Money \(VFM\)](#) in Council services.
4. To scrutinise the decision making of the Cabinet against the Budget and Policy Framework laid down by the Council and against performance targets and budgets.
5. To assist in the investigations referred to the Committee by the Cabinet, Council or Council Members.

Powers and Responsibilities:

1. The ability, as a member of the Committee, to require Cabinet members to attend and be questioned on matters relating to their roles and responsibilities.
2. The ability, as a member of the Committee, to require the Chief Executive, Group Directors and Directors to attend and be questioned on matters relating to their roles, functions and responsibilities.
3. The ability, as a member of the Committee, to call expert witnesses and advisors from outside the Council, or a Member of the Council not serving on the Committee, to provide advise on matters under review or discussion.
4. To develop a working knowledge of the overview and scrutiny function and the services which are the responsibility of the relevant Committee, sub-committee or task group.
5. To actively participate in the activities associated with the relevant Overview and Scrutiny Committee's work.
6. To develop a working knowledge of the Council's Constitution, including Standing Orders, statutory requirements, regulations, codes of conduct, practice and agreed conventions associated with, and relating to, the relevant Committee and its functions.

7. To, as a member of the relevant Committee, identify areas needing review or monitoring.
8. To, as a member of the relevant Committee, identify issues to be the subject of policy development by the relevant Overview Committee.
9. To, as a member of the relevant Committee, report to the Cabinet or the Council regarding the conclusion of, and recommendations arising from, the investigations, reviews and studies undertaken.

COUNCILLOR ROLE DEFINITION CHAIR OF OVERVIEW AND SCRUTINY COMMITTEE

Role Purpose:

1. Under the direction of the Council:-
 - (a) to act as the spokesperson of the relevant Overview and Scrutiny Committee to the Cabinet, the Council and the local community;
 - (b) to contribute fully as a member of the relevant Committee.

Duties and Responsibilities:

1. To develop a working knowledge of the overview and scrutiny function and the services which are the responsibility of the relevant Committee.
2. To ensure that the approach to overview and scrutiny is managed effectively, unified and that duplication of effort or investigation is avoided between Committees, sub-committees and any task group.
3. To lead the overview and scrutiny function and to act as the link between the overview and scrutiny function and the Cabinet Member responsible for the service subject to scrutiny, and the Member responsible for [Value for Money \(VFM\)](#) ~~Best Value~~ and performance. |
4. To fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
5. To accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
6. To establish, as appropriate, and in liaison with relevant officers, the Committee work programme, the officers / witnesses to be called and the order of attendance / appearance.
7. To ensure that any work programme associated with the overview and scrutiny function is carried out satisfactorily and in accordance with any timetable determined by the Council, the Cabinet or by the Committee itself.

INDEPENDENT CHAIR OF STANDARDS COMMITTEE

ROLE PURPOSE:

1. Under the direction of the Council and the Standards Committee:-
 - (a) to act as the spokesperson of the Standards Committee to the Council, Town and Parish Councils, and the local community;
 - (b) to contribute fully as a member of the Standards Committee.

DUTIES AND RESPONSIBILITIES:

To work with other Standards Committee members, the Council's Monitoring Officer and the officers of the Council:-

Duties and Responsibilities:

1. To develop a working knowledge of the Ethical Framework and the matters that are the responsibility of the Standards Committee and its Sub-Committees.
2. To actively promote ethics and standards within Swindon Borough Council, and within Town and Parish Councils within the Borough, and to ensure that the work of the Standards Committee is managed effectively.
3. To foster and maintain a disciplined approach by the Members involved in the Standards Committee and its Sub-Committees having regard to high standards of procedure, behavior and ethics.
4. To lead the Standards Committee function within the Council and to act as the link between the Committee, the Monitoring Officer, relevant Council Departments, officers and Councillors, and the Parish and Town Councils.
5. To fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
6. To accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
7. To represent the Standards Committee in all dealings with the public media and other bodies in respect of the work of the Committee.
8. To promote and participate in Training and Development associated with the work of the Standards Committee and the Ethical Framework, including the Code of Conduct.

9. To establish, as appropriate, and in liaison with the Monitoring Officer, the Standards Committee work programme.
10. To ensure that any work programme associated with the Standards Committee is carried out satisfactorily and in accordance with any timetable determined by statute, the Standards Board for England, the Council or by the Committee itself.
11. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol.
12. To participate in any forum established for independent members of the Standards Committee.
13. To attend, if required, other meetings of the Borough Council or Parish Councils in order to represent the Standards Committee and raise the profile of ethics and standards within the authority and Borough.

INDEPENDENT MEMBER OF STANDARDS COMMITTEE

ROLE PURPOSE:

1. Under the direction of the Council's Standards Committee:-
 - (a) to assist in the delivery of high standards of ethics and probity within Swindon Borough Council and within Town and Parish Councils within the Borough to the benefit of the local community;
 - (b) to contribute fully as a member of the Standards Committee.

DUTIES AND RESPONSIBILITIES:

To work with the Chair of the Standards Committee and other Standards Committee members and the officers of the Council:-

Duties and Responsibilities:

1. To attend and actively participate as of a member of the Standards Committee in meetings of the Committee and any sub-committees as and when required.
2. To actively promote ethics and standards within Swindon Borough Council and within Town and Parish Councils within the Borough area.
3. To participate in training events to promote awareness of the Code of Conduct.
4. To participate in any forum established for independent members of the Standards Committee.
5. To attend if required other meetings of the Borough Council or Parish Councils in order to represent the Standards Committee and raise the profile of ethics and standards within the authority and Borough.

CHAIR OF LICENSING COMMITTEE

ROLE PURPOSE:

1. Under the direction of the Council:-
 - (a) to act as the spokesperson of the Licensing Committee to the Council and the local community;
 - (b) to contribute fully as a member of the Licensing Committee.

DUTIES AND RESPONSIBILITIES:

To work with other Licensing Committee members and the officers of the Council:-

Duties and Responsibilities:

1. To develop a working knowledge of the Licensing function and the matters that are the responsibility of the Licensing Committee and its Panels and Sub-Committees.
3. To ensure that the approach to Licensing is managed effectively, and that matters before the Committee, and its Panels and Sub-Committees are approached with an open mind avoiding any predetermination or bias.
3. To foster and maintain a disciplined approach by the Members involved in the Licensing Committee and its Panels and Sub-Committees having regard to high standards of procedure, behavior and ethics.
4. To lead the Licensing function within the Council and to act as the link between the Licensing function and relevant Council Departments, officers and Councillors.
5. To fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
6. To accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
7. To represent the Council and the Licensing Committee in all dealings with the public media and other bodies in respect of the work of the Committee.
8. To promote and participate in Member Training and Development associated with the Licensing function.
9. To establish, as appropriate, and in liaison with relevant officers, the Licensing Committee work programme.

10. To ensure that any work programme associated with the Licensing function is carried out satisfactorily and in accordance with any timetable determined by the Council or by the Committee itself.
11. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

NON-EXECUTIVE (BACKBENCH) COUNCILLOR LICENSING COMMITTEE

ROLE PURPOSE:

1. Under the direction of the Council:-
 - (a) to assist in the delivery of the Council's Licensing function for the benefit of the Council and the local community;
 - (b) to contribute fully as a member of the Licensing Committee.

DUTIES AND RESPONSIBILITIES:

To work with the Chair of the Licensing Committee and other Licensing Committee members and the officers of the Council:-

Duties and Responsibilities:

1. To develop a working knowledge of the Licensing function and the matters that are the responsibility of the Licensing Committee and its Panels and Sub-Committees.
4. To ensure that the approach to Licensing is delivered fairly and effectively, and that all matters before the Committee, and any Panels and Sub-Committees on which the Member serves are approached with an open mind avoiding any predetermination or bias.
3. To maintain a disciplined approach when involved in the work of the Licensing Committee and its Panels and Sub-Committees having regard to high standards of procedure, behavior and ethics.
4. To actively participate as of a member of the Licensing Committee and to ensure compliance with the requirements of the Council's Constitution, its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
6. To accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
7. To participate in Member Training and Development associated with the Licensing function.
9. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

CHAIR OF AUDIT COMMITTEE

ROLE PURPOSE:

1. Under the direction of the Council and the Audit Committee:
 - (a) to Chair the Committee of the Council charged with overseeing the financial reporting, risk management, audit and internal control arrangements of the Council.
 - (b) to act as the spokesperson of the Audit Committee to the Council and the local community;
 - (c) to contribute fully as a member of the Audit Committee.

DUTIES AND RESPONSIBILITIES:

To work with other Audit Committee members, the Director of Finance, the Council's Monitoring Officer, Head of Internal Audit and the officers of the Council:

Duties and Responsibilities:

1. To Chair the Audit Committee in reviewing the effectiveness of the Council's risk management framework and internal control environment, including overseeing:
 - Risk management strategies
 - Financial statements
 - Internal and External Audit reports
 - Anti-fraud arrangements
 - Other evidence of the Council's risk management and internal control systems
2. To develop a working knowledge of the matters that are the responsibility of the Audit Committee.
3. To actively promote the role of the Audit Committee in particular in relation to risk management and internal control.
4. To work with the Director of Finance, the Head of Internal Audit and Risk Manager to plan an effective work programme for the Committee.
5. Report to Council when necessary to give assurances about the financial statements, risk management and internal control mechanisms or to raise concerns of any significant weakness.
6. To receive briefings from Group Directors or other senior staff in order to understand the context and importance of forthcoming events.
7. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote

these principles by leadership and example. Including acting within any agreed protocol.

8. To promote and participate in Training and Development associated with the work of the Audit Committee.

MEMBER OF AUDIT COMMITTEE

ROLE PURPOSE:

1. Under the direction of the Council's Audit Committee:-
 - (a) to assist in the delivery of high standards of risk management and internal control within Swindon Borough Council to the benefit of the local community;
 - (b) to contribute fully as a member of the Audit Committee.

DUTIES AND RESPONSIBILITIES:

To work with the Chair of the Audit Committee and other Audit Committee members and the officers of the Council:-

Duties and Responsibilities:

1. To attend and actively participate as of a member of the Audit Committee in meetings of the Committee and any sub-committees as and when required.
2. To review the effectiveness of the Council's risk management framework and internal control environment, including overseeing:
 - Risk management strategies
 - Anti-fraud arrangements
3. To monitor the effectiveness of the Council's financial and non-financial performance to the extent that it affects exposure to risk and poor internal control.
4. To provide independent assurance to the Council in relation to the annual Governance Statement.
5. To review and approve the annual statement of accounts, confirming the appropriate accounting policies have been followed, including the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
6. To monitor and review the activity and effectiveness of both Internal and External Audit.
7. To promote and participate in Training and Development associated with the work of the Audit Committee.
8. To actively promote risk management and internal control within Swindon Borough Council.

LEADER OF OPPOSITION GROUP

ROLE PURPOSE:

To undertake the functions of a Councillor and to provide leadership to the major Opposition Political Group on the Council.

DUTIES AND RESPONSIBILITIES:

1. To lead the Opposition Political Group within the Council, and to act as the link between that Opposition Group and the Administration (Controlling Political Group), the other Political Groups and independent Councillors, Council officers and relevant Council Departments.
5. To act as the principal spokesperson for the Opposition Group on the Council and as a representative of the Council to external bodies and other organisations as appropriate.
6. To actively participate in the work of the Council, particularly, by way of commenting, challenging and reviewing the Council Administration's (Controlling Political Group's) performance in the co-ordination and implementation of its policies.
7. To establish and represent the views of the Opposition Group on issues of policy.
3. To foster and maintain a disciplined approach by the Members of the Opposition Group having regard to high standards of procedure, behavior and ethics.
5. To accept responsibility for the decisions of the Opposition Group and to advocate these, as necessary, on behalf of the Group.
7. To represent the Opposition Group in all dealings with the public, media and other bodies in respect of the work of the Opposition Group.
8. To promote and participate in Member Training and Development.
9. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol, and in promoting this approach within the Opposition Group.

LEADER OF AN OPPOSITION GROUP

ROLE PURPOSE:

To undertake the functions of a Councillor and to provide leadership to a minority Opposition Political Group on the Council.

DUTIES AND RESPONSIBILITIES:

1. To lead a minority Opposition Political Group within the Council, and to act as the link between that Opposition Group and the Administration (Controlling Political Group), the other Political Groups and independent Councillors, Council officers and relevant Council Departments.
8. To act as the principle spokesperson for the minority Opposition Group on the Council and as a representative of the Council to external bodies and other organisations as appropriate.
9. To actively participate in the work of the Council, particularly, by way of commenting, challenging and reviewing the Council Administration's (Controlling Political Group's) performance in the co-ordination and implementation of its policies.
10. To establish and represent the views of the minority Opposition Group on issues of policy.
3. To foster and maintain a disciplined approach by the Members of the minority Opposition Group having regard to high standards of procedure, behavior and ethics.
5. To accept responsibility for the decisions of the minority Opposition Group and to advocate these, as necessary, on behalf of the Group.
7. To represent the Opposition Group in all dealings with the public, media and other bodies in respect of the work of the minority Opposition Group.
8. To promote and participate in Member Training and Development.
9. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol, and in promoting this approach within the minority Opposition Group.

Swindon Borough Council

Media Guidelines for Councillors

(Approved by Standards Committee on 23rd July 2007)

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, except in limited instances. 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.

SWINDON BOROUGH COUNCIL
PROTOCOL FOR MEMBER/OFFICER RELATIONS
Adopted by the Authority as from 19th September 2002
(Reviewed May 2007)

1. Underlying principles

The principles underlying this protocol are as follows: -

- 1.1 There shall be mutual courtesy and respect between Members and officers with regard to their respective roles set out below.
- 1.2 Members and officers shall each carry out their respective duties in the best interests of the Council.
- 1.3 This Protocol applies to all dealings between Members and officers and not just in formal meetings.

2. The Role of Members

2.1 These include the following:-

- 2.1.1 Develop and set policies that will then be implemented by the officers.
- 2.1.2 Monitor how those policies are being implemented.
- 2.1.3 Provide guidance to the officers on how those policies are to be implemented either if Members wish to do so or if officers ask for guidance.
- 2.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 2.1.5 Understand the statutory roles of the Chief Executive as Head of Paid Service, the Director of Finance as Section 151 Officer, the Monitoring Officer, Group Director, Housing and Social Care and the Group Director, Children, and of the significance attached to their advice.
- 2.1.6 Consult, where possible, with the communities they represent on the development of policy, [particularly Best Value Reviews, the Best Value Performance Plan, cCommunity pPlanning and other local initiatives](#).
- 2.1.7 Consult with the Monitoring Officer and the Director of Finance about vires, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were, or are likely to

be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.

2.1.8 Respect officers' political impartiality.

2.1.9 Promote the highest standards of conduct and ethics by leadership and example.

2.1.10 .Act within any agreed Councillor protocol.

2.2 Members must not insist that any officer

2.2.1 Change his or her professional advice but in relation to specific matters should draw all relevant matters to the officer's attention as referred to in paragraph 3.1.7.

2.2.2 Take any action, or not take action that the officer considers unlawful or illegal, or which would be likely to amount to maladministration.

3. The Role of officers

3.1 Officers:

3.1.1 Should implement the policies set by Members.

3.1.2 Will ask for guidance on implementation of the policies set by Members if they are unclear about any aspect of those policies.

3.1.3 Give such professional advice to Members as may be required of them from time to time.

3.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.

3.1.5 Must remember that he or she is employed by Swindon Borough Council as a whole and not by any particular part of the Council.

3.1.6 Are under a duty to help all Councillors/Co-optees and all parts of the Authority equally.

3.1.7 Should take all relevant matters into account when formulating advice to Members.

3.1.8 Act in accordance with the Officers Code of Conduct

3.2 Officers must not:

3.2.1 Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.

3.2.2 Take any action, or not take action, which would be unlawful or illegal or which would be likely to amount to maladministration.

4. Relationship between Members and officers

4.1 The relationship between officers and Members should be characterised by mutual respect which is essential to good local government.

4.2 Individual Members and officers must not use improper and/or inappropriate language to each other and, in particular, offensive and/or abusive words must not be used.

4.3 Close personal familiarity between individual Members and officers can damage professional relationships and prove embarrassing to other Members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct, or the perception that a Member and officer treat each other differently than others due to the nature of the personal relationship between them. This includes excessive socialising between Members and officers.

4.4 Any close personal or family relationships (eg. parent/child; spouse/partner) between officers and Members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others.

4.5 Members should not raise matters relating to the conduct or capability of Council staff either individually or collectively at meetings held in public or in the Press. Staff have no means of responding to criticism like this in public. If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a member of staff they should raise the matter with the Director of the department concerned if they fail to resolve it through direct discussion with the member of staff.

5. Relationship between the Mayor, Leader of the Council, Cabinet Members and officers

5.1 The Mayor, the Leader of the Council and Cabinet Members shall be bound by the same provisions set out in paragraph 2

when acting as Mayor/Chair of the Council or Members of the Cabinet as they would be when acting as an ordinary Council Member.

6. Relationship between the Chair and Members of Overview and Scrutiny Committees (including the Scrutiny Committee) and officers

6.1 The Chair and members of the Council's overview and scrutiny committees and related bodies shall:

- 6.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or the Monitoring Officer and other appropriate officers where they consider a decision of the Cabinet might be contrary to the policy framework.
- 6.1.2 When considering calling officers to give evidence the Committees shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior officer to ensure that more junior officers are not put under undue pressure.
- 6.1.3 When asking officers to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be expected to give a political view.
- 6.1.4 Where they consider it appropriate, ask officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and their responses to consultations under the Scheme of Delegations.
- 6.1.5 Not to question officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a disciplinary nature.
- 6.1.6 At all times respect the political impartiality of the officers.

6.2 Officers shall

- 6.2.1 Maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
- 6.2.2 Be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they

themselves have taken under the Council's Constitution and Scheme of Delegations.

- 6.2.3 Ensure that an officer of sufficient seniority appears before the relevant Committee.

7. Relationship between the Chair and Members of other Committees and officers

- 7.1 This shall apply to all the Council's Cabinet, and Committees, including Planning Committee, Standards Committee, the Regulatory Committees, and Area Forums and the Chair and members of those Council bodies shall:
 - 7.1.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
 - 7.1.2 Give officers the opportunity to present any report and give any advice they wish to present or give.

8. Officer Relationships with Party Groups

- 8.1 When dealing with the various party groups:
 - 8.1.1 Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's committees or panels and maintain political impartiality at all times.
 - 8.1.2 Any request for advice to a political group or Member will be treated with strict confidence by the officers concerned and will not be accessible to any other political group. Factual information upon which any advice is based will, if requested, be available to all political groups
- 8.2 When acting in party groups, and dealing with officers, Members shall:
 - 8.2.1 Recognise that attendance at Party Group meetings by officers is not compulsory but officers may properly be called upon to support and contribute to such deliberations by Party Groups either by attendance or by preparing documentation for discussion by a group, subject to the availability of resources.
 - 8.2.2 Recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will not be actioned by officers.

8.2.3 Ensure they do not do anything that may compromise officer impartiality.

8.2.4 Ensure that confidential matters are not divulged to non-councillors.

9. Members ~~in their~~ Ward Roles

9.1 When acting in their ward role, Members:

9.1.1 Officers must brief Ward Councillors on significant events happening in their Ward in advance of them going public. Examples of such events range from a playing field being opened, to an ASBO being issued to an individual in their area.

9.1.2 As set out in the Scheme of Delegation, Members are entitled to be consulted in their capacity as Ward Members before an Officer exercises any powers under the Scheme of Delegation on any issue which may affect a particular ward

9.1.3 As set out in the Report Writing Protocol, Officers must ensure that Ward Councillors are consulted where relevant on reports relating to issues affecting particular wards so that comments from Ward Councillors can be taken into account before the report is finalised.

9.2 When acting in their ward role, Members:

9.2.1 Need to be mindful of their competing roles, ie acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time.

9.2.2 Recognise the officers' right to suggest that senior officers, the Cabinet, Council or a committee should authorise additional work requested by individual Members.

10. Member Access to Documents and information

10.1 Save as provided below every Member of the Cabinet, a Committee and / or Sub-Committee of the Council has a right to inspect documents about the business of that Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution.

- 10.2 A Member who is not a member of a specific Committee, Sub-Committee or the Cabinet may have access to any documents of that part of the Council if:
 - 10.2.1 He or she can demonstrate a reasonable need to see the documents to perform his or her duties (the 'need to know'); and
 - 10.2.2 The document or papers or information do not contain 'confidential' or 'exempt information'.
- 10.3 An officer should seek the advice of the Monitoring Officer in any case of doubt in relation to the reasonableness of a Member's request to have access to documentation and a Member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter
 - 10.3.1 In which he or she has a personal or prejudicial interest; or
 - 10.3.2 Where to do so would be in breach of the Data Protection Act 1998.
- 10.4 A Member must seek the advice of the Monitoring Officer before disclosing information given in confidence, in order that the Member can be advised as to whether such disclosure is reasonable and in the public interest, and whether such disclosure would be made in good faith and in compliance with the reasonable requirements of the Council.

11. Non-Council Members on Council Bodies

- 11.1 This Protocol also applies to all those people who are not elected members of the Council but who are members of or attend any of the Council's Committees or any other Council bodies.

12. Press Releases

- 12.1 All Council press releases
 - 12.1.1 Should be in accordance with the Council's agreed Media Guidelines
 - 12.1.2 Should be issued through the Council's Media/Public Relations Team
 - 12.1.3 Should be concerned with matters of policy

12.1.4 Should not contain anything of a political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

13. Correspondence

- 13.1 All correspondence written on behalf of the Council must be written on the relevant headed paper.
- 13.2 When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the ward member.
- 13.3 Correspondence between individual Members and officers should not be copied to other Members or officers unless the Member or officer concerned indicates otherwise.
- 13.4 All correspondence should normally be open to the inspection of the public in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the data protection legislation.

14. Breach of the Protocol

- 14.1 If the Protocol is breached, then a complaint may be made to the Monitoring Officer who shall consult with the Chair of Standards Committee and if appropriate refer the complaint to the Standards Committee to be considered further.

15. Further Advice

- 15.1 Any particular cases of difficulty or uncertainty under this protocol should be raised with the Monitoring Officer who will advise how to proceed.

SWINDON BOROUGH COUNCIL

MEMBERS PLANNING

CODE OF GOOD PRACTICE

Adopted by the Authority as from 2nd February 2004
(Reviewed 18 April 2005)

SWINDON BOROUGH COUNCIL

Members' Planning Code of Good Practice

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SWINDON BOROUGH COUNCIL

Members' Planning Code of Good Practice

Background

This Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and is based on a Model Code produced by the Association of Council Secretaries and Solicitors in consultation with the District Audit Service, Local Government Ombudsman and the Standards Board for England.

Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

The key purpose of Planning: to control development in the public interest.

Your role as a Member of the Planning Authority: to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer (Stephen Taylor, Director of Law and Democratic Services, 01793 463012), or one of his staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards Board for England.

2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. A 'Declaring Interests Flowchart' is attached to this Code
- **Do** then act accordingly. **Where your interest is personal and prejudicial:-**
 - **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
 - **Don't** try to represent ward/local views, get another Ward/Local Member to do so instead.
 - **Don't** get involved in the processing of the application.
 - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when members of the public would not have the same opportunity to do so.
 - **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. For example, where you have a prejudicial interest in a matter, you may address the Planning Committee but only in the same manner as would apply to a member of the public, after which you must leave the room whilst the meeting considers the matter.

- **Do** notify the Monitoring Officer in writing of your own application and note that:
 - notification to the Monitoring Officer should be made no later than submission of the application;
 - the proposal will always be reported to the Committee as a main item and
not dealt with by officers under delegated powers; and
 - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee

3. Fettering Discretion in the Planning Process.

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a prejudicial interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:
 - you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
 - another local or public authority of which you are a member; or
 - a body to which you have been appointed or nominated by the Council as its representative; or
 - you are a trustee or company director of the body submitting the proposal and were appointed by the Council

you should always disclose a prejudicial as well as personal interest and withdraw.

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (for example, where you are also a member of the parish council), provided:
 - the proposal does not substantially affect the well being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** seek to take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the member seating area for the duration of that item; and
 - ensure that your actions are recorded.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do** agree to be briefed by an applicant or developer on an application (especially as a Ward Member). **Don't** commit to a view. **Do** consider taking another Councillor or Officer with you to any arranged meeting, if it is possible, according to your discretion. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Director of Planning to organise it. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is

properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Director of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers. At the start of the meeting it should be explained the merits of the case will not be discussed. If the applicant requests the views of the authority, these will be communicated subsequently and in writing. In such communication, officers will make it clear that any views expressed prior to formal determination of an application are preliminary.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Council Committee.
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum; its acceptance is declared as soon as possible and remember to register the gift or hospitality in accordance with the Council's Code of Conduct on gifts and hospitality for Councillors.
- **Do** copy or pass on any lobbying correspondence you receive to the Director of Planning at the earliest opportunity, unless you know that it has already been received by the planning department.

- **Do** promptly refer to the Director of Planning any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.
- **Do**, if you are a member of a general interest group, disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits

- **Do familiarise yourself with the location of the site of the planning application you are to consider.**

- **Do** try to attend site visits organised by the Council where possible
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters that are relevant to the site inspection.
- **Don't** hear representations from any other party with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where the applicant or a third party approaches you, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - the site is open to members of the public,
 - you feel it is essential for you to visit enter the site other than through attending an official site visit
 - you have first informed the Council's Director of Planning about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Director of Planning, which may be incorporated into any committee report).

- **Do** contact the Case Officer to seek advice and guidance on the material planning issues related to the application. Officers have a professional obligation to advise any Member or interested party of the material factors to be taken into account in the evaluation of a proposal. This can benefit Members' consideration of the proposal and focus the decision making process on planning matters.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

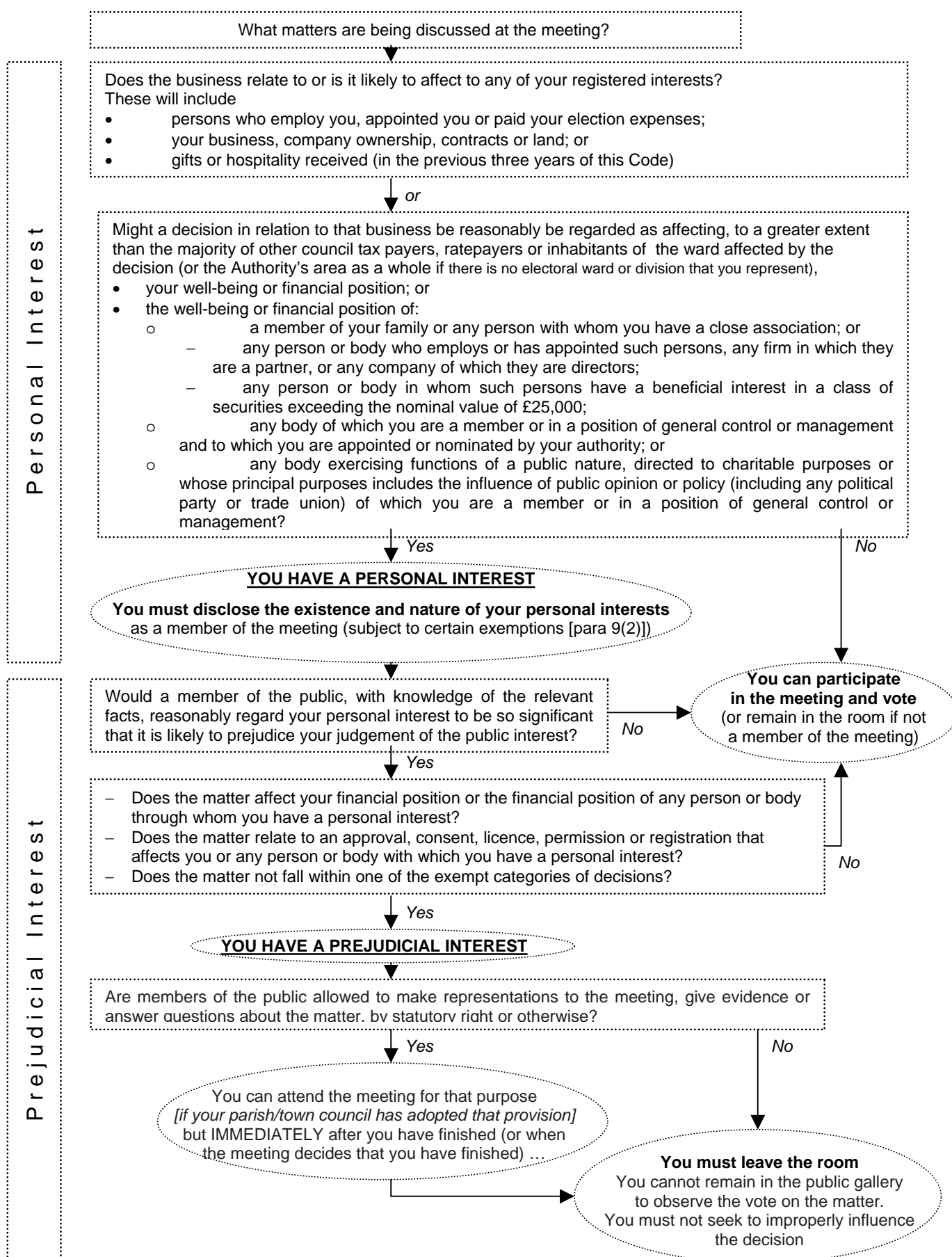
11. Training

- **Don't** participate in decision-making at meetings dealing with planning matters if you have not attended planning training provided by the

Council.

- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that judgements have been based on proper planning considerations.

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF (Non-Overview and Scrutiny Meetings)



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Delivering Good Governance in Local Government

Standards Committee

Date: 21st January 2008

Authors: Director of Law and Democratic Services and Head of Internal Audit

Wards Affected: All

Purpose

- The purpose of the report is to update the Standards Committee on the new CIPFA/SOLACE Code of Corporate Governance and Annual Governance Statement.

Recommendations

The Standards Committee is asked to:

- (1) Note that the Corporate Governance Working Group have requested the Director of Law and Democratic Services and the Head of Internal Audit to review the existing governance arrangements against the Corporate Governance Framework published by CIPFA/SOLACE.
- (2) Note that the Corporate Governance Working Group have requested the Director of Law and Democratic Services to develop a Local Code of Governance, including arrangements for its ongoing application and effectiveness.
- (3) Recognise the Audit Committee's role in recommending the approval of the annual governance statement reporting publicly on the extent to which the Council complies with its own code annually, including how the Council has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period
- (4) Note that the Corporate Governance Working Group, the Standards Committee, the Council's Corporate Board, the Cabinet, the Audit Committee and the full Council will all be involved in the reporting lines of the process associated with the preparation of the Annual Governance Statement.

1 Reasons

- 1.1 CIPFA/SOLACE have recently produced an updated governance framework. The framework is a discretionary code and is offered as good practice. However, part of the framework requires the publication of an Annual Governance Statement, replacing the Statement on Internal Control, and this is a statutory requirement under The Accounts and Audit (Amendment) Regulations 2006.
- 1.2 It is important that the Council follow best practice and comply with relevant legislation.

2 Detail

The Governance Framework

- 2.1 Governance comprises the systems and processes, and cultures and values by which the Council is directed and controlled and through which it accounts to, engages with and, where appropriate leads the community.
- 2.2 Each Council will operate through a governance framework that brings together an underlying set of legislative requirements, governance principles and management processes. The CIPFA/SOLACE Framework is intended to be followed as best practice for developing and maintaining a Local Code of Governance and for discharging accountability for the proper conduct of public business through the publication of an Annual Governance Statement that should make the adopted practice more open and explicit.
- 2.3 The Framework defines the principles that should underpin the governance of each local authority body. It aims to provide a structure to help individual authorities with their own approach to governance.
- 2.4 The Framework outlines six core principles of good governance:
 - Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area.
 - Members and officers working together to achieve a common purpose with clearly defined functions and roles.
 - Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
 - Taking informed and transparent decisions, which are subject to effective scrutiny and risk management.
 - Developing the capacity and capability of Members and officers to be effective.
 - Engaging with local people and other stakeholders to ensure robust public accountability.
- 2.5 Authorities should then test their structures against these principles by:
 - Reviewing existing governance arrangements against the Framework.
 - Developing and maintaining an up-to-date local code of governance, including arrangements for its ongoing application and effectiveness.
 - Preparing a governance statement in order to report publicly on the extent to which they comply with their own code annually, including how they have monitored the effectiveness of their governance arrangement in the year, and on any planned changes in the coming period.

- 2.6 The degree to which the authority follows these principles should then be recorded in the Annual Governance Statement, which will be published alongside the Council's accounts for 2007/08.

The Annual Governance Statement

- 2.7 The Annual Governance Statement is the formal statement that recognises, records and publishes an authority's governance arrangements. It is a statement that has now subsumed the Statement on Internal Control (SIC).
- 2.8 It is designed not only to give an opportunity for authorities to consider the robustness of their governance arrangements, but also provide an accurate representation of arrangements in place during the year and to identify areas where improvement is required.

Roles and Responsibilities for producing the Annual Governance Statement

- 2.9 The Leader of the Council and Chief Executive retain joint responsibility as signatories for the accuracy and completeness of the Annual Governance Statement, and must satisfy themselves that it accurately reflects the governance framework for which they are responsible.
- 2.10 Like the Statement on Internal Control, at the centre of the review process will be a corporate body that have the ultimate responsibility for drafting the Annual Statement. For the Statement on Internal Control this was undertaken by the Corporate Board supported by a working group consisting of the Directors of Finance; Law and Democratic Services; Performance, Policy and Communications; Local Provision and the Head of Internal Audit.
- 2.11 The Group would receive assurances from a number of officers, stakeholders and member bodies (including the Standards Committee and the Corporate Governance Working Group) and be responsible for evaluating the assurances and ensuring that adequate supporting evidence is available to substantiate it. This will involve confirming that there is consistency within existing policies and the governance framework. Transparency and clear co-ordination and referencing of all areas of assurance and evidence across the organisation will ultimately promote and increase corporate awareness of the governance statement.
- 2.12 Risk Management will feature strongly in the process by advising on risks to achieving corporate objectives and statutory requirements, as set out in corporate, directorate and departmental risk registers, and how they are managed.
- 2.13 The Head of Internal Audit will produce a written statement (Head of Internal Audit's Annual Report) timed to support the Annual Governance Statement.

In addition the Head of Internal Audit will be responsible for interim reporting to the organisation throughout the year, addressing emerging issues in respect of the whole range of areas covered by the annual report. The Head of Internal Audit currently provides these reports to meetings of the Audit Committee. This will help to ensure that the opinion in the annual Audit Report may be relied upon as a key piece of evidence for the Annual Statement.

- 2.14 Once the draft Annual Governance Statement is complete it will in turn be reported to Cabinet who will make recommendations to the Audit Committee, who should critically review the Statement and its supporting documentation. It is vital that they remain independent of the compilation of the Statement and that they have the power to make recommendations, and ultimately changes, to the process and statement. The Audit Committee will then approve the Statement for submission to the Leader and the Chief Executive for signature.
- 2.15 Key to production of the Annual Statement is the evaluation of assurances and review of evidence to support the governance framework. In order to achieve this, reliance will need to be placed on many other sources of assurance. The flowchart at Appendix 1 and details at Appendix 2 show the potential sources and demonstrates the review process.
- 2.16 The Flowchart at Appendix 3 shows the proposed process for assurance gathering and makes suggestions as to the key areas to consider at each stage.
- 2.17 The Audit Commission have amended the Use of Resources Key Lines Of Enquiry (KLOES) for 2007/08 (see Appendix 4 attached) to take account of the introduction of the Annual Governance Statement in replacing the Statement on Internal Control, and have included references to the 'effectiveness of the governance framework' rather than the focus on internal control.
- 2.18 There is also a new focus on the assurance and evidence relating to joint working arrangements and partnerships. This is cited as one of the most notable and high profile additions in the Annual Governance Statement, and is also a new criterion for Level 4 in section 4.2 of the KLOE.

Timescales

- 2.19 The Annual Governance Statement should be reviewed at least once a year. However, to ensure it adds value to the organisation assurances on the effectiveness of its internal control arrangements, it should be an ongoing process throughout the year.

Delivering Good Governance in Local Government

Standards Committee

Date: 21st January 2008

- 2.20 Authorities are required to include the Annual Governance Statement in the approval process of the statement of accounts in June, however the statutory reporting requirement is linked to the publication of the statement of accounts, 3 months after the deadline for approval (i.e. September).
- 2.21 The Statement (a pro forma is set out in Appendix 5: Delivering Good Governance in Local Government: Framework – see pages 33 to 37) must be approved at a meeting of the Audit Committee. There is no statutory timetable for this approval, however it should be satisfied that the document is still current at the time of its publication.
- 2.22 It is not necessary to have approved a Local Code of Corporate Governance in order to prepare the Annual Governance Statement, but it is good practice.
- 2.23 The Council's Corporate Governance Working Party considered a report on the new Corporate Governance Framework and Annual Governance Statement at its meeting on 31st October. The Working Party welcomed the opportunity to be involved in the preparation and review process, and resolved:
- (1) That the Group Director, Resources and Leisure, the Director of Law and Democratic Services and the Head of Internal Audit be requested to review the Council's existing governance arrangements against the Corporate Governance Framework published by CIPFA/SOLACE.
 - (2) That the Director of Law and Democratic Services develop a Local Code of Governance, including arrangements for its ongoing application and effectiveness.
 - (3) That the Corporate Governance Working Group confirms it would wish to be involved in commenting on an Annual Governance Statement reporting publicly on the extent to which the Council complies with its own code annually, including how the Council has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period.
 - (4) That it be noted that the Corporate Governance Working Group, the Standards Committee, the Council's Corporate Board, the Cabinet, the Audit Committee and the full Council will all be involved in the reporting lines of the process associated with the preparation of the Annual Governance Statement.

Alternative Options

- Not Applicable.

Risk Management

Financial and Procurement Implications

- There are no direct financial implications from this report.
- Compliance with best practice on the Annual Governance Statement is included in a number of the key lines of enquiry for the Use of Resources assessment for all levels.
- External Audit will review the Annual Governance Statement for compliance with proper practice.

Legal/Human Rights Implications

- The Council must provide an Annual Governance Statement for inclusion with the Council's statement of accounts in accordance with The Accounts and Audit Regulations 2006.

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

- The purpose of the Annual Governance Statement process is to produce a formal statement that recognises, records and publishes an authority's governance arrangements. It incorporates the requirements previously reported in the Statement on Internal Control. It is important that the Statement sets out the strategic and corporate risks to the Council's key objectives i.e. the Corporate Plan, Swindon 2010 promises etc.

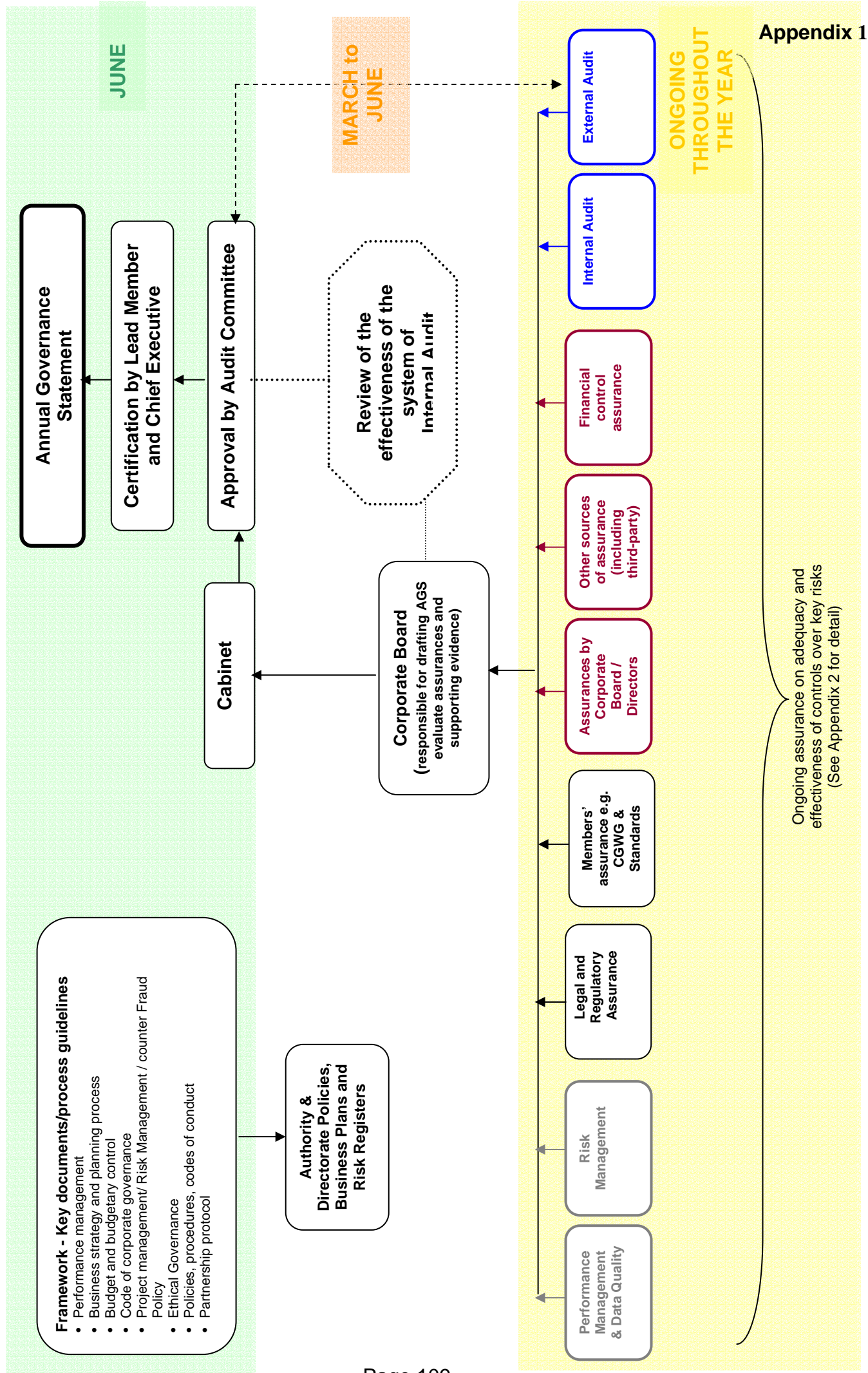
Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.
- The Chief Executive
- The Group Director, Business Transformation
- Head of Internal Audit.

Background Papers and Appendices

- Appendix 1 – Proposed Framework for the Annual Governance Statement
- Appendix 2 - Examples of Key Areas that may Provide Assurance on the Adequacy and Effectiveness of Controls Over Our Key Risks
- Appendix 3 – Review of the Annual Governance Statement and the Assurance Gathering Process
- Appendix 4 – Use of Resources Kloses relating to the Annual Governance Assurance Statement
- Appendix 5 – Pro forma: Annual Governance Assurance Statement (Delivering Good Governance in Local Government: Framework – see pages 33 to 37)

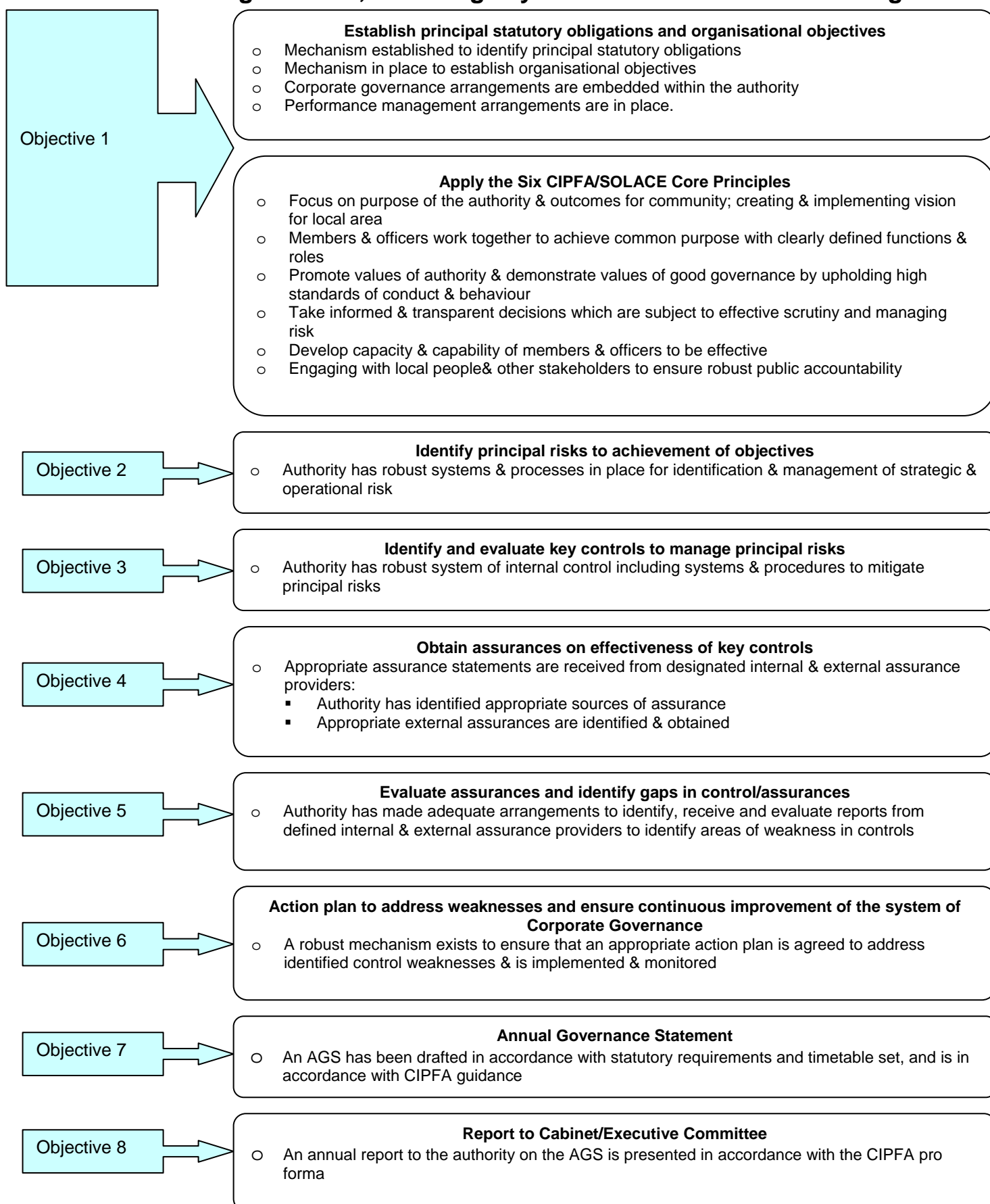
ANNUAL GOVERNANCE STATEMENT FRAMEWORK (FLOWCHART)



Examples of Evidence to Support Assurance on the Adequacy and Effectiveness of Controls Over Our Key Risks

Performance Management and Data Quality <ul style="list-style-type: none"> • Service Planning and Performance Management Framework • Annual Report on Council Spending & Performance • Internal & External Reviews • National & Local KPI's • Embedded System 	Risk Management <ul style="list-style-type: none"> • Risk Mgt. Strategy • Will be embedded in policies & planning • Annual review of compliance by Corporate Co-ordinate Committee • Effectiveness reviewed by Internal Audit • CGWG monitoring
Legal and Regulatory Assurance <ul style="list-style-type: none"> • Working Party reports • Ombudsman reports • Work of Standards Committee • Corporate Governance Working Group • 	Members' Assurance <ul style="list-style-type: none"> • Constitution • Code of Conduct • Code of Corporate Governance
Assurances by directors/service heads <ul style="list-style-type: none"> • Chief Officers' assurance statement • Reports by Inspectors/Auditors • Best value reports • Post implementation reviews of projects • Risk registers • Internal / consultancy work studies • 	Internal Audit <ul style="list-style-type: none"> • Head of Internal Audits opinion as expressed in the Annual Assurance report & periodic reports • Risk based internal audit plan • Significant risk reports • Audit Charter • Fraud reports & investigations
Financial Control Assurance <ul style="list-style-type: none"> • Service Planning and Performance Management Framework • Annual Report on Council Spending & Performance • Internal & External Reviews 	External Audit <ul style="list-style-type: none"> • Annual Plan • Audit & Inspection letter • Audit Opinion • Ad-hoc projects
Other sources of assurance (including third party) <ul style="list-style-type: none"> • Audit Commission • CPA • BVPP • Govt Inspectorates (e.g. Social Services, Ofsted) • Best Value Reviews 	

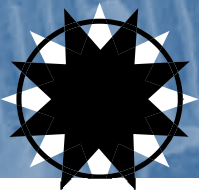
Review of the Annual Governance Statement and the Assurance Gathering Process, including key areas to consider at each stage



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4. INTERNAL CONTROL			
How well does the council's internal control environment enable it to manage its significant business risks?			
Key line of enquiry			
4.2 The council has arrangements in place to maintain a sound system of internal control			
Audit Focus			
Evidence that:			
<ul style="list-style-type: none"> the council reviews and reports on its system of internal control the council has an audit committee or equivalent and an internal audit function 			
Criteria for Judgement			
Level 2	Level 3	Level 4	
<p>* An appropriate member group has responsibility for review and approval of the governance statement, and considers it separately from the accounts.</p> <p>* The council has conducted an annual review of the effectiveness of its governance framework, including the system of internal control, and reported on this in the governance statement.</p> <p>* The sources of assurance to support the governance statement have been identified and are reviewed by senior officers and members.</p> <p>* There are action plans in place to address any significant governance issues reported in the governance statement.</p>	<p>* The council has put in place an assurance framework that maps the council's strategic objectives to risks, controls and assurances.</p> <p>* The assurance framework provides members with information to support the governance statement.</p>	<p>The assurance framework is fully embedded in the council's business processes.</p> <p>The council can demonstrate corporate involvement in/ownership of the process for preparing the governance statement.</p> <p>Governance arrangements with respect to partnerships are subject to regular review and updating.</p> <p>The council obtains assurance on a risk basis of the viability of its significant contractors' / partners business continuity plans.</p>	

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SOLACE
Society of Local Authority
Chief Executives and Senior Managers

CIPFA

DELIVERING GOOD GOVERNANCE IN LOCAL GOVERNMENT FRAMEWORK

AT THE HEART OF
PUBLIC SERVICES

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The Working Group

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

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Section 1

Introduction

- 1.1** Governance arrangements in the public services are keenly observed and sometimes criticised. Significant governance failings attract immense attention – as they should – and one significant failing can taint a whole sector. Local government bodies are big business, employing over two million people and accounting for 25% of public spending. They are vitally important to all tax payers and citizens. Authorities need to ensure the delivery of high-quality services to them.
- 1.2** Good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes for citizens and service users. Good governance enables an authority to pursue its vision effectively as well as underpinning that vision with mechanisms for control and management of risk. All authorities should aim to meet the standards of the best and governance arrangements should not only be sound but also be seen to be sound.

HOW TO USE THIS FRAMEWORK

- 1.3** This Framework is aimed at the following types of local government body or authority:
- county councils
 - district councils
 - most-purpose authorities
 - Greater London Authority and functional bodies
 - city regions
 - the Corporation of London
 - fire authorities

- joint authorities (including passenger transport, waste disposal and combined fire authorities)
- police authorities
- national park authorities.

However, it is recognised that authorities of different types and geographical areas can be subject to separate legislative arrangements. With this in mind, guidance notes to accompany the Framework have been developed for:

- authorities in England (excluding police)
- authorities in Wales (excluding police)
- police authorities in England and Wales
- authorities in Scotland
- authorities in Northern Ireland.

1.4 The guidance notes, which should be used in conjunction with the Framework, will assist authorities in considering how they might go about reviewing their governance arrangements. They will also help local government bodies in interpreting the overarching principles and terminology contained in the Framework in a way that is appropriate to the structure and role of their governing body and taking account of the legislative and constitutional arrangements that underpin them. However, it is not intended that the guidance notes are in any way prescriptive – all authorities are encouraged to consider carefully the content of the Framework and to use it in a way that best reflects their structure, type, functions and size.

WHAT DO WE MEAN BY GOVERNANCE?

- 1.5** Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.6** It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and

through which they account to, engage with and, where appropriate, lead their communities.¹

PURPOSE OF THE FRAMEWORK

- 1.7** Each local government body operates through a governance framework which brings together an underlying set of legislative requirements, governance principles and management processes. This Framework document is intended to be followed as best practice for developing and maintaining a local code of governance and for discharging accountability for the proper conduct of public business, through the publication of an annual governance statement that will make the adopted practice open and explicit.
- 1.8** The Framework defines the principles that should underpin the governance of each local government body. It provides a structure to help individual authorities with their own approach to governance. Whatever form of executive arrangements are in place, authorities are urged to test their structures against the principles contained in the Framework by:
- Reviewing their existing governance arrangements against this Framework.
 - Developing and maintaining an up-to-date local code of governance, including arrangements for ensuring its ongoing application and effectiveness.
 - Preparing a governance statement in order to report publicly on the extent to which they comply with their own code on an annual basis, including how they have monitored the effectiveness of their governance arrangements in the year, and on any planned changes in the coming period.

1. Based on the definition contained in *The Report of the Committee on the Financial Aspects of Corporate Governance* (the Cadbury Committee, 1992). Cadbury defined corporate governance as the “system by which organisations are directed and controlled”. In the police, this is distinct from the operational responsibility that the chief constable has for the direction and control of the police force.

1.9 In England, the preparation and publication of an annual governance statement in accordance with this Framework is necessary to meet the statutory requirement set out in Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2006 for authorities to prepare a statement of internal control in accordance with “proper practices”. The supplement to this Framework serves to define such “proper practices”. In Wales, it is likely that a review/update of the Accounts and Audit (Wales) Regulations will adopt the good governance framework as proper practices for the purposes of the Accounts and Audit (Wales) Regulations. Such a review is likely to be effected during 2007/08. In Scotland and Northern Ireland, the preparation and publication of an annual governance statement in accordance with this Framework will satisfy the requirements of chapter 7 of the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice*.

1.10 In order to review their current arrangements, authorities will need to:

- Consider the extent to which the authority complies with the principles and requirements of good governance set out in the Framework.
- Identify systems, processes and documentation that provide evidence of compliance.
- Identify the individuals and committees responsible for monitoring and reviewing the systems, processes and documentation identified.
- Identify the issues that have not been addressed adequately in the authority and consider how they should be addressed.
- Identify the individuals who would be responsible for undertaking the actions required and plan accordingly.

1.11 This document reflects the role or business of local government bodies. Four key roles have been identified in the diagram opposite. Not all types of authorities have all the responsibilities outlined.

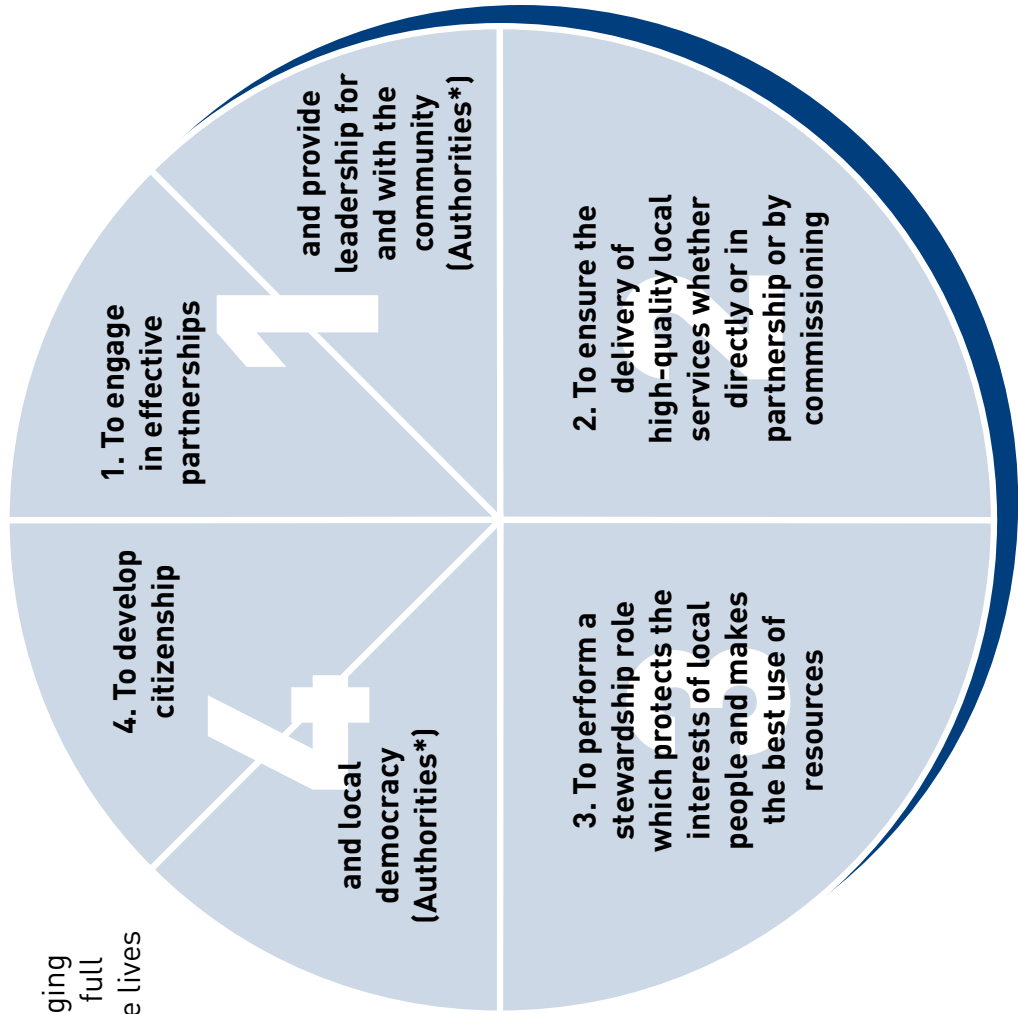
1. Partnerships are a key component for public service provision and authorities have a major role to play in leading partnership working.

Authorities* are able to provide leadership to their communities through their ability to act in an advocacy role and to promote the economic, social and environmental well-being of their area.
2. Authorities are responsible for ensuring the delivery of high quality services to their communities. Some authorities provide most of their services on an in-house basis. Others provide some services in-house and employ private sector contractors to provide others. Some act as 'governance bodies' and are responsible for ensuring the efficient and effective provision of the service by other providers. Authorities also enter into contracts with voluntary bodies and enter into shared or agency arrangements with other authorities.

4. Authorities have a key role to play in working with others to build a strong sense of community and in encouraging individual citizens to play a full and constructive part in the lives and development of their communities.

Authorities* are democratically accountable to their communities.

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



NB * Authorities include county councils, district councils, most-purpose authorities and the Greater London Authority.

These roles should be borne in mind when considering the principles outlined in section 2.

- 1.12** This Framework presents authorities with an opportunity to set a new standard for good governance. Good governance is important to all involved in local government. However, it is a key responsibility of the leader of the council (or equivalent) and of the chief executive (or equivalent). This document will be of particular importance to them, to other members of the leadership team and to the full council or authority and also to all those responsible for monitoring and providing assurance on governance arrangements.

Section 2

Framework for the Development of a Local Code

DEFINING THE PRINCIPLES OF GOOD GOVERNANCE

- 2.1** The following six core principles are taken from *The Good Governance Standard for Public Services* (2004) developed by the Independent Commission on Good Governance in Public Services with support from the Office for Public Management and CIPFA and have been adapted for local government purposes.



2. Including citizens and service users.

SUPPORTING PRINCIPLES

- 2.2** The six core principles have the following supporting principles, each of which in turn translates into a range of specific requirements that should be reflected in authorities' local codes:

	Paragraph reference
<ul style="list-style-type: none"> • Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area <ul style="list-style-type: none"> – exercising strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and service users – ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning – ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money. 	3.2
<ul style="list-style-type: none"> • Members and officers working together to achieve a common purpose with clearly defined functions and roles <ul style="list-style-type: none"> – ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function³ – ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of authority members and officers are carried out to a high standard – ensuring relationships between the authority and the public are clear so that each knows what to expect of the other. 	3.3

3. Not all authorities operate an executive/scrutiny model; for example, police and fire authorities. In England, local authorities with a population of less than 85,000 are able to operate a streamlined committee system with arrangements for scrutiny and review.

	Paragraph reference
<ul style="list-style-type: none"> • Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour <ul style="list-style-type: none"> – ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance – ensuring that organisational values are put into practice and are effective. 	3.4
<ul style="list-style-type: none"> • Taking informed and transparent decisions which are subject to effective scrutiny and managing risk <ul style="list-style-type: none"> – being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny – having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs – ensuring that an effective risk management system is in place – using their legal powers to the full benefit of the citizens and communities in their area. 	3.5
<ul style="list-style-type: none"> • Developing the capacity and capability of members and officers to be effective <ul style="list-style-type: none"> – making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles – developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group – encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal. 	3.6

	Paragraph reference
<ul style="list-style-type: none"> • Engaging with local people and other stakeholders to ensure robust public accountability <ul style="list-style-type: none"> – exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships – taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning – making best use of human resources by taking an active and planned approach to meet responsibility to staff. 	3.7

Section 3

The Principles of Good Governance – Application

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

CORE PRINCIPLE

- 3.2 Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area**

The function of governance is to ensure that authorities, other local government organisations or connected partnerships fulfil their purpose and achieve their intended outcomes for citizens and service users and operate in an effective, efficient, economic and ethical manner. This concept should guide all governance activity.

Local government bodies need to develop and articulate a clear vision of their purpose and intended outcomes for citizens and service users that is clearly communicated, both within the organisation and to external stakeholders.

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> exercising strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcome for citizens and service users 	<ul style="list-style-type: none"> develop and promote the authority's purpose and vision review on a regular basis the authority's vision for the local area and its implications for the authority's governance arrangements ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance
<ul style="list-style-type: none"> ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning 	<ul style="list-style-type: none"> decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available put in place effective arrangements to identify and deal with failure in service delivery
<ul style="list-style-type: none"> ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money 	<ul style="list-style-type: none"> decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions

CORE PRINCIPLE

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

The governing body of an organisation has overall responsibility for directing and controlling that organisation. In local government the governing body is the full council or authority.

Further information on the structure and roles of the local authority governing bodies is included in the guidance notes to this Framework.

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function 	<ul style="list-style-type: none"> set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers
<ul style="list-style-type: none"> ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard 	<ul style="list-style-type: none"> determine a scheme of delegation and reserve powers within the constitution,⁴ including a formal schedule of those matters specifically reserved for collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required

4. Authorities such as national parks do not have formal constitutions but normally rely on the scheme of delegation instead.

Supporting principles	The local code should reflect the requirement for local authorities to:
	<ul style="list-style-type: none"> • make a chief executive or equivalent responsible and accountable to the authority for all aspects of operational management • develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained • make a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control • make a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with
<ul style="list-style-type: none"> • ensuring relationships between the authority, its partners and the public are clear so that each knows what to expect of the other 	<ul style="list-style-type: none"> • develop protocols to ensure effective communication between members and officers in their respective roles • set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel (if applicable) • ensure that effective mechanisms exist to monitor service delivery

Supporting principles	The local code should reflect the requirement for local authorities to:
	<ul style="list-style-type: none"> • ensure that the organisation’s vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated • when working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority • when working in partnership: <ul style="list-style-type: none"> – ensure that there is clarity about the legal status of the partnership – ensure that representatives of organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions

CORE PRINCIPLE

3.4 Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Good governance flows from a shared ethos or culture, as well as from systems and structures. It cannot be reduced to a set of rules, or achieved fully by compliance with a set of requirements. This spirit or ethos of good governance can be expressed as values and demonstrated in behaviour.

Good governance builds on the seven principles for the conduct of people in public life that were established by the Committee on Standards in Public Life, known as the Nolan principles. In England, the Local Government Act 2000 outlined ten principles of conduct – an additional three to those identified by Nolan – for use in local government bodies. The Nolan seven principles and additional three principles are included in the guidance notes accompanying this Framework.

A hallmark of good governance is the development of shared values, which become part of the organisation’s culture, underpinning policy and behaviour throughout the organisation, from the governing body to all staff. These are in addition to compliance with legal requirements on, for example, equal opportunities and anti-discrimination.

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none">ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance	<ul style="list-style-type: none">ensure that the authority’s leadership sets a tone for the organisation by creating a climate of openness, support and respectensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocolsput in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> ensuring that organisational values are put into practice and are effective 	<ul style="list-style-type: none"> develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations, and communicate these with members, staff, the community and partners put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice develop and maintain an effective standards committee use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority in pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively

CORE PRINCIPLE

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

Decision making within a good governance framework is complex and challenging. It must further the organisation's purpose and strategic direction and be robust in the medium and longer terms. To make such decisions, authority members must be well informed.

Members making decisions need the support of appropriate systems, to help to ensure that decisions are implemented and that resources are used legally and efficiently.

Risk management is important to the successful delivery of public services. An effective risk management system identifies and assesses risks, decides on appropriate responses and then provides assurance that the chosen responses are effective.

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> • being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny 	<ul style="list-style-type: none"> • develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible • develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based • put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice • develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee • ensure that effective, transparent and accessible arrangements are in place for dealing with complaints

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> • having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs 	<ul style="list-style-type: none"> • ensure that those making decisions whether for the authority or the partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications • ensure that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately
<ul style="list-style-type: none"> • ensuring that an effective risk management system is in place 	<ul style="list-style-type: none"> • ensure that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their jobs • ensure that effective arrangements for whistle-blowing are in place to which officers, staff and all those contracting with or appointed by the authority have access
<ul style="list-style-type: none"> • using their legal powers to the full benefit of the citizens and communities in their area 	<ul style="list-style-type: none"> • actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise their powers to the full benefit of their communities • recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on authorities by public law

Supporting principles	The local code should reflect the requirement for local authorities to:
	<ul style="list-style-type: none">• observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into their procedures and decision-making processes

CORE PRINCIPLE

3.6 Developing the capacity and capability of members and officers to be effective

Effective local government relies on public confidence in authority members, whether elected or appointed, and in officers. Good governance strengthens credibility and confidence in our public services.

Authorities need people with the right skills to direct and control them effectively. Governance roles and responsibilities are challenging and demanding, and authority members need the right skills for their roles. In addition, governance is strengthened by the participation of people with many different types of knowledge and experience.

Good governance means drawing on the largest possible pool of potential members to recruit people with the necessary skills. Encouraging a wide range of people to stand for election or apply for appointed positions will develop a membership that has a greater range of experience and knowledge. It will also help to increase the diversity of authority members in terms of age, ethnic background, social class, life experiences, gender and disability. This concept should also be borne in mind when members are appointed to the boards of other public service organisations.

Supporting principles	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles 	<ul style="list-style-type: none"> provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority
<ul style="list-style-type: none"> developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group 	<ul style="list-style-type: none"> assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs
<ul style="list-style-type: none"> encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal 	<ul style="list-style-type: none"> ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority ensure that career structures are in place for members and officers to encourage participation and development

CORE PRINCIPLE

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

Local government is accountable in a number of ways. Elected local authority members are democratically accountable to their local area and this gives a clear leadership role in building sustainable communities. All members must account to their communities for the decisions they have taken and the rationale behind those decisions. All authorities are subject to external review through the external audit of their financial statements. They are required to publish their financial statements and are encouraged to prepare an annual report. Many are subject to national standards and targets. Their budgets are effectively subject to significant influence and overview by government, which has powers to intervene. Both members and officers are subject to codes of conduct. Additionally, where maladministration may have occurred, an aggrieved person may appeal either through their local councillor or directly to the ombudsman.

Supporting principle	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none">exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships	<ul style="list-style-type: none">make clear to themselves, all staff and the community to whom they are accountable and for whatconsider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationships and any changes requiredproduce an annual report on the activity of the scrutiny function

Supporting principle	The local code should reflect the requirement for local authorities to:
<ul style="list-style-type: none"> taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning 	<ul style="list-style-type: none"> ensure clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively hold meetings in public unless there are good reasons for confidentiality ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result on an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period

Supporting principle	The local code should reflect the requirement for local authorities to:
	<ul style="list-style-type: none">• ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so
<ul style="list-style-type: none">• making best use of human resources by taking an active and planned approach to meet responsibility to staff	<ul style="list-style-type: none">• develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making

Section 4

Annual Review and Reporting

- 4.1** Local government bodies are responsible for ensuring that their business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The development of a code of corporate governance, consistent with the principles and requirements of this Framework, will help to ensure proper arrangements are in place to meet that responsibility. Authorities should undertake regular, at least annual, reviews of their governance arrangements to ensure continuing compliance with best practice as set out in the Framework. It is important that such reviews are reported on both within the authority, to the audit committee or other appropriate member body, and externally with the published accounts, to provide assurance that:
- governance arrangements are adequate and operating effectively in practice, or
 - where reviews of the governance arrangements have revealed gaps, action is planned that will ensure effective governance in future.
- 4.2** The process of preparing the governance statement should itself add value to the corporate governance and internal control framework of an organisation. It should be submitted to the authority for consideration.

Supplement to the Framework

ANNUAL GOVERNANCE REVIEW AND REPORTING AND EXAMPLE OF ANNUAL GOVERNANCE STATEMENT

The governance statement

Proper practice
<p>The preparation and publication of an annual governance statement in accordance with this Framework is necessary to meet the statutory requirement set out in Regulation 4(2) of the Accounts and Audit Regulations 2003, as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 which requires authorities to “conduct a review at least once in a year of the effectiveness of its system of internal control” and to prepare a statement on internal control “in accordance with proper practices”.</p> <p>With effect from 2007/08, this supplement to the Framework defines proper practices for the form and content of a governance statement that meets the requirement to prepare and publish a statement on internal control in accordance with Regulation 4(2) of the Accounts and Audit Regulations 2003, as amended by the Accounts and Audit (Amendment) (England) Regulations 2006. There is no requirement to prepare and publish a separate statement on internal control.</p> <p>In Wales, it is likely that a review/update of the Accounts and Audit (Wales) Regulations will adopt the good governance framework as proper practices for the purposes of the Accounts and Audit (Wales) Regulations. Such a review is likely to be effected during 2007/08.</p> <p>CIPFA’s previously published guidance on the form and content of the statement on internal control, <i>The Statement on Internal Control in Local Government: Meeting the Requirements of the Accounts and Audit Regulations 2003</i>, has formally been withdrawn and does not apply to periods after 2006/07.</p>

- 1 A governance statement should include the following information:

- an acknowledgement of responsibility for ensuring there is a sound system of governance (incorporating the system of internal control)
- an indication of the level of assurance that the systems and processes that comprise the authority's governance arrangements can provide
- a brief description of the key elements of the governance framework, including reference to group activities where those activities are significant
- a brief description of the process that has been applied in maintaining and reviewing the effectiveness of the governance arrangements, including some comment on the role of:
 - the authority
 - the executive
 - the audit committee/overview and scrutiny function/risk management committee/standards committee
 - internal audit
 - other explicit review/assurance mechanisms
- an outline of the actions taken, or proposed, to deal with significant governance issues, including an agreed action plan.

- 2 A pro forma governance statement is provided in the appendix to this supplement. It does not provide standard wording for the sections dealing with the governance arrangements and the review of their effectiveness. It is not appropriate to use standard wording to describe or demonstrate the effectiveness of the particular governance arrangements at a given authority, which will be dependent on the risk profile and range of activities in operation.
- 3 A 'good' governance statement will be an open and honest self-assessment of the organisation's performance across all of its activities, with a clear statement of the actions being taken or required to address areas of concern. It is inevitable that, where

the process of review has been rigorous and robust, issues will be identified that the organisation will need to address. An organisation that sets out with the mistaken aim of achieving a 'clean' statement, with no issues to report, risks creating a culture in which problems and concerns are suppressed to avoid criticism. Moreover, the absence of any issues to report, rather than indicating a strong governance framework, may signal quite the reverse – that the governance arrangements are not as effective as they should be.

- 4 It is important to recognise that the governance statement covers all significant corporate systems, processes and controls, spanning the whole range of an authority's activities, including in particular those designed to ensure that:
 - the authority's policies are implemented in practice
 - high-quality services are delivered efficiently and effectively
 - the authority's values and ethical standards are met
 - laws and regulations are complied with
 - required processes are adhered to
 - financial statements and other published performance information are accurate and reliable
 - human, financial, environmental and other resources are managed efficiently and effectively.
- 5 It therefore covers performance issues – good governance promotes good service but poor service performance reflects a failure of governance. Consequently, approval and ownership of the governance statement should be at a corporate level and should be confirmed by the most senior officer (chief executive or equivalent) and the most senior member (leader or equivalent) signing the statement on behalf of the authority. Equally, the review and approval of the governance statement by a member group separately from the accounts will help to ensure its robustness and reinforce its corporate standing.

- 6 In reviewing and approving the governance statement, members will require assurances on the effectiveness of the governance framework and how this addresses the key risks faced by the authority, taking account of changing risks and circumstances. It will be for individual authorities to identify what arrangements are needed, in the context of their own structures and objectives, to maintain a sound governance framework. However, an effective governance framework will demonstrate the following attributes:
- There is a clear vision of the authority's purpose and intended outcomes for citizens and service users that is clearly communicated, both within the organisation and to external stakeholders.
 - Arrangements are in place to review the authority's vision and its implications for the authority's governance arrangements.
 - Arrangements exist for measuring the quality of services for users, for ensuring they are delivered in accordance with the authority's objectives and for ensuring that they represent the best use of resources.
 - The roles and responsibilities of the executive, non-executive, scrutiny and officer functions are clearly defined and documented, with clear delegation arrangements and protocols for effective communication.
 - Codes of conduct defining the standards of behaviour for members and staff are in place, conform with appropriate ethical standards, and are communicated and embedded across the organisation.
 - Standing orders, standing financial instructions, a scheme of delegation and supporting procedure notes/manuals, which are reviewed and updated as appropriate, clearly define how decisions are taken and the processes and controls required to manage risks.

- The core functions of an audit committee, as identified in CIPFA's *Audit Committees – Practical Guidance for Local Authorities* (2005), are undertaken by members.
 - Arrangements exist to ensure compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful. All reports are considered for legal issues before submission to members.
 - Arrangements for whistle-blowing and for receiving and investigating complaints from the public are in place and are well publicised.
 - Arrangements exist for identifying the development needs of members and senior officers in relation to their strategic roles, and are supported by appropriate training.
 - Clear channels of communication have been established with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation.
 - Governance arrangements with respect to partnerships and other group working incorporate good practice as identified by the Audit Commission's report on the governance of partnerships,⁵ and are reflected in the authority's overall governance arrangements.
- 7 Management from across the organisation will provide the primary source of assurance and members will need to ensure that there are appropriate assurance-gathering arrangements in place to enable those assurances to be mapped against the principles⁶ in this Framework. An effective internal audit function will also

5. *Governing Partnerships: Bridging the Accountability Gap*, Audit Commission, 2005.

6. For further guidance please see *The Annual Governance Statement: Meeting the Requirement of the Accounts and Audit Regulations 2003, incorporating Accounts and Audit (Amendment) (England) Regulations 2006 – Rough Guide for Practitioners*, the CIPFA Finance Advisory Network, 2007. This document includes guidance on the compilation of the annual governance statement, a pro-forma for gathering assurance and suggested types and sources of evidence.

be a significant source of assurance. Further assurances will be available from a wide range of external sources, including corporate assessments and direction of travel statements, inspections and external audit (through the annual audit of the accounts and use of resources assessments), and the application of specific diagnostic tools developed by the Audit Commission, such as *Changing Organisational Cultures* (2005) and the *Ethical Governance Diagnostic: Setting High Standards in Public Life* (2005). Both of these publications are introductory leaflets on audit tools which bodies could obtain from their auditors.

- 8 The governance statement should be approved at a meeting of the authority or delegated committee. Whilst there is no statutory timetable for this approval, to comply with the Accounts and Audit Regulations the statement must be published with, although financial statements will drive the timetable for approval of the governance statement. As the governance statement provides a commentary on all aspects of the organisation's performance, it would be appropriate for it to be incorporated, either in full or in summarised form, into the annual report, where one is published. Given that it might be prepared before the audit is completed, it is also important that the governance statement is kept up to date at the time of publication.

Appendix

ANNUAL GOVERNANCE STATEMENT

Scope of responsibility

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

In discharging this overall responsibility, [the authority] is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and which includes arrangements for the management of risk.

[The authority] has approved and adopted a code of corporate governance, which is consistent with the principles of the CIPFA/ SOLACE Framework *Delivering Good Governance in Local Government*. A copy of the code is on our website at [...] or can be obtained from [...]. This statement explains how [the authority] has complied with the code and also meets the requirements of regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a statement on internal control.

The purpose of the governance framework

The governance framework comprises the systems and processes, and culture and values, by which the authority is directed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.

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

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

The governance framework

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

- identifying and communicating the authority’s vision of its purpose and intended outcomes for citizens and service users
- reviewing the authority’s vision and its implications for the authority’s governance arrangements
- measuring the quality of services for users, for ensuring they are delivered in accordance with the authority’s objectives and for ensuring that they represent the best use of resources

- defining and documenting the roles and responsibilities of the executive, non-executive, scrutiny and officer functions, with clear delegation arrangements and protocols for effective communication
- developing, communicating and embedding codes of conduct, defining the standards of behaviour for members and staff
- reviewing and updating standing orders, standing financial instructions, a scheme of delegation and supporting procedure notes/manuals, which clearly define how decisions are taken and the processes and controls required to manage risks
- undertaking the core functions of an audit committee, as identified in CIPFA's *Audit Committees – Practical Guidance for Local Authorities*
- ensuring compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful
- whistle-blowing and for receiving and investigating complaints from the public
- identifying the development needs of members and senior officers in relation to their strategic roles, supported by appropriate training
- establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation
- incorporating good governance arrangements in respect of partnerships and other group working as identified by the Audit Commission's report on the governance of partnerships,⁷ and reflecting these in the authority's overall governance arrangements.

7. *Governing Partnerships: Bridging the Accountability Gap*, Audit Commission, 2005.

Review of effectiveness

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

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

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

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

Significant governance issues

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

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

Signed:

Leading Member (or equivalent) & Chief Executive (or equivalent) on behalf of [the authority]

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Ethical Framework Update

Standards Committee

Date: 21 January 2008

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 welcomed and noted.
- That the Monitoring Officer be authorised to advertise for up to 2 independent members for appointment from May 2008.
- That the Corporate Governance Working Party be consulted on the proposal to increase the membership of the Standards Committee from 7 to 11 members to provide additional capacity to operate local filtering arrangements when introduced.

1. Reasons

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

2. Detail

Membership of the Standards Committee

- 2.1 In January 2007, the Committee authorised the Director of Law and Democratic Services to carry out the public advertisements and appointment processes for any future vacancies on the Standards Committee and to recommend appointments to Council in accordance with the current procedure.
- 2.2 Mr Keith Carby was appointed as a lay member for a 4-year term of office from May 2004, and therefore his seat on the Committee is due for re-advertisement in April 2008. The Monitoring Officer is due to begin the advertisement process shortly for a 4 year term appointment to run from June 2008 to April 2011. There are no restrictions on the current post holder continuing on the Committee following a successful application process.
- 2.3 In the light, however, of the consultation on the local filtering arrangements which are the subject of a separate report on this agenda, it may be necessary to increase the number of members on the Committee. It is

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: 21 January 2008

suggested that the size of the Committee could be increased by 4 members, to give a total membership of 11 members as follows:

- ◆ 2 Conservative Members (increased from 1)
- ◆ 2 Labour Members (increased from 1)
- ◆ 1 Liberal Democrat Member (as current)
- ◆ 4 Independent Members (increased from 3)
- ◆ 2 Parish Representatives (increased from 1)

- 2.4 The views of the Committee are sought on this matter, and if the Committee is in favour of this proposal, it is suggested that this be recommended to the Corporate Governance Working Group for consideration, and that in the interim the Monitoring Officer be authorised to advertise for up to 2 independent members to begin in May 2008.
- 2.5 In practical terms, each of the Conservative and Labour Groups have already appointed deputies and so those members could be made full members of the Committee.
- 2.6 Discussions have taken place with the Swindon Area Committee on the potential to appoint a new deputy parish representative, in place of Mr Richard Hailstone, who has stepped down from the Committee. If it was decided that the number of Committee members did need to increase, it may be appropriate to appoint the second parish representative as a full member of the Committee, rather than as a deputy representative. This would also allow the Parish Councils to continue to be represented if their nominated representative is 'conflicted out' of the decision-making process for whatever reason.

Standards Board Publications

- 2.7 Attached at Appendix '1' is the Standards Board Bulletin for December 2007 (Issue 36) which includes references to:
- Amendments to the Local Government Act 2000.
 - DCLG consultation on new regulations and orders.
 - Local Assessment of Complaints – Summary of the findings from the pilots.
 - Checklist for local authorities in the run up to April 2008.
 - Local Assessment information now available online
 - Case Review 2007 available online.
 - Audit Commission review of Councils that identified where Councils need to take stronger action in relation to ethical governance.
 - Abolition of Independent Adjudicator giving a new role to Standards Committees to grant dispensations to staff to engage in political activities.
 - Update on advice on suspensions.

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: 21 January 2008

- 2.8 If any member of the Committee has any queries on any issue raised in the Bulletin, these can be raised at the Committee meeting and prior notice thereof to the Monitoring Officer would be helpful.

Monitoring and Audit Pilot

- 2.9 On 6 December 2007, the Committee Officer on behalf of the Monitoring Officer took part in a Standards Board pilot exercise to test and evaluate the new online submission system for inputting information on Standards complaints as part of the local filtering arrangements. The feedback form provided to the Board will be analysed alongside feedback from other authorities, in order that appropriate improvements can be made to the system, before its introduction.

Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum

- 2.10 The next meeting of the Forum is scheduled for Friday 29th February 2008, to be hosted by South Oxfordshire District Council.

Standards Committee Conference

- 2.11 No further action has been able to be taken in relation to the proposed Swindon Standards Committee Conference. Although it is still intended that this will take place, it may well now be later in the year than originally planned due to the pressure of other commitments.

Training and Development

- 2.12 An update on the latest training and development activities undertaken by Members is attached at Appendix '2',

Alternative Options

- It is open to the Committee to decide not to propose an increase in its membership.

Risk Management

Financial and Procurement Implications

- There are no direct financial or procurement implications.

Legal / Human Rights Implications

- There are no direct legal or human rights implications

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: 21 January 2008

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, Business, Transformation
- The Conservative, Labour and Liberal Democrat Groups, and Councillor Glaholm.

Background Papers and Appendices

- Appendix 1 – Standards Board Bulletin for December (Issue 36)
- Appendix 2 – Training and Development Update

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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Welcome to Issue 36 of the *Bulletin*.

2007 has been an eventful year for the Standards Board for England, with all the elements of the local standards framework starting to come together. We all have a lot to do in 2008 to ensure its successful implementation.

The *Local Government and Public Involvement in Health Act 2007* is now law and firmly places responsibility for the standards agenda where it belongs, at the heart of local government. Standards committees will have a vital role in ensuring that the Code of Conduct is lived out locally and upheld. We believe that this approach will reinforce the importance of high standards at a local level, helping to demonstrate accountability and developing greater local trust.

The Standards Board continues to develop its functions as a strategic regulator and is working hard to prepare local authorities for their new responsibilities in the ethical framework. We are producing detailed guidance that will be made available to all relevant authorities in the new year, to reflect the regulations issued under the *Local Government and Public Involvement in Health Act 2007*.

In this issue of the *Bulletin* we focus on the findings from the local assessment pilots, and provide a checklist for local authorities in the run-up to April 2008. We also clarify the position of suspended members in relation to conduct outside their official capacity, and look at the Audit Commission's survey on ethical governance.

We have enjoyed a very positive year, with a successful relocation to Manchester and the opportunity to meet many of you at our roadshows and our well-received Annual Assembly.

We look forward to continuing and developing our close relationships with local authorities in the context of the new standards framework from 2008.



David Prince
Chief Executive

Amendments to the *Local Government Act 2000*

The *Local Government and Public Involvement in Health Act 2007* was passed by Parliament on 30 October 2007 when it received royal assent.

The act includes important amendments to the *Local Government Act 2000*, including:

- 1) The introduction of a locally managed framework of compliance with the Code of Conduct and a new regulatory role for the Standards Board for England.

This will involve local standards committees making initial assessments of misconduct allegations, and most cases being handled locally. The Standards Board will provide supervision, support and guidance for local authorities. The Standards Board will also aim to ensure some degree of consistency in the application of the Code.

It is anticipated that the sections introducing the locally managed framework will commence on 1 April 2008.

- 2) The application of the Code to cover some conduct in a private capacity, where this has led to a criminal conviction.

This second amendment does not take effect immediately as the relevant parts of the act have not yet come into force and, in the meantime, conduct carried out in a member's private capacity cannot be subject to the Code.

Government consultation on new regulations and orders

Communities and Local Government (CLG) is expected to consult in December 2007 on proposals for the new regulations and orders that flow from the *Local Government and Public Involvement in Health Act 2007*.

The consultation is expected to include proposals for regulations on local assessment of complaints, joint standards committees and an increased range of sanctions for standards committees.

The consultation document will be available in the next couple of weeks from www.communities.gov.uk.

Local assessment of complaints: pilot findings

During the summer, the Standards Board for England piloted the local assessment of complaints with a broad geographical range of authorities of all types, across England. A total of 38 standards committees participated in the pilot, each of which considered 12 real but anonymised cases, including two appeal cases.

The Standards Board collected a range of data and feedback from the pilot, developing an overview of how the local system might work in practice. Detailed analysis of the results and feedback supplied by 30 committees was undertaken. The results are based on 360 allegations considered by standards committees.

Standards committees were asked to record whether they decided to:

- Refer allegations to the Standards Board.
- Refer allegations to the monitoring officer for investigation or alternative action such as mediation or training.
- Not refer them at all.

The average referral rate for standards committees was just over six out of the ten cases (excepting the two appeals) at 66.5%, compared with the Standards Board's referral rate on the same cases of three out of ten, or 30%. However, local standards committees had the further option to consider alternative action such as mediation, training or an apology, which is not available to

the Standards Board, and referrals for alternative action are included in their average.

The average rate of referral for alternative measures was 7.3%. The average non-referral rate for standards committees was low at 33.5% compared with the Standards Board's non-referral rate of 70%.

The Standards Board had originally referred three of the ten allegations given to participating standards committees in the pilot for investigation. Standards committees participating in the pilot largely correlated with the Standards Board in their decisions to refer these allegations.

The majority of referrals by standards committees were made to monitoring officers at an average rate of 40%, ranging between 23% and 66.6%. The rate of referral to the Standards Board for investigation was low, at less than 10%.

Standards committees made decisions which diverged significantly from those of the Standards Board in only 11 of the 360 allegations.

Therefore, participating standards committees took a different view from the Standards Board in less than 4% of cases.

Standards committees were asked to self-assess their collective decision-making for each complaint against the following categories:

- 1) Quick decisions.
- 2) Decisions requiring some deliberation.
- 3) Difficult decisions.
- 4) Not specified (where no decision was reached in the allocated time).

In nearly 40% of cases, standards committees considered that they were able to reach a quick decision, and only in 13% of cases were decisions considered slow and difficult with much deliberation.

Standards committees were also asked to record whether any of their decisions went to the vote. Nearly 14%, or 49 of the total of 360 allegations considered in the pilot, were voted on. A further 11% of the total complaints were undecided, in most cases because a decision was not reached in the time allocated. Therefore, 76% of the decisions taken in total by the participating standards committees were reached through consensus.

Finally, standards committees were also asked to consider a range of additional procedures and resources they considered necessary for managing the local system and making it work in their own authority.

The average number of members from participating authorities serving on their standards committees is nine, and ranges from five to 16. The average number of independent members is nearly four, ranging from two to seven. Some 93% of participating standards committees had an independent chair.

Almost half of participating standards committees considered themselves to be politically balanced in the strict legal sense, that is, in accordance with the political balance requirements of Sections 15-17 of the *Local Government and Housing Act 1989*.

The establishment of a sub-committee was considered to be necessary by 23 of 30 committees, while only a third, ten of 30, considered adding more independent members as necessary.

Of the 13 authorities which stated they would not increase the number of independent members on their standards committee, seven said they would need to increase resources, five were unsure, and only one felt they would not need to increase resources.

Checklist for local authorities in the run up to April 2008

This article offers a 'checklist' for local authorities of things to consider in the run-up to the implementation of the locally managed framework. Please note that, in some cases, it is subject to Communities and Local Government making appropriate regulations.

1) Size of standards committee

Standards committees must have a minimum of:

- Three members (two elected members and one independent member).
- 25% as independent lay members if the committee is more than three people.
- An independent chair (from April 2008).
- One parish or town council member if the authority has responsibilities for those councils.

Effective practice - the Standards Board recommends:

- At least six people as a minimum (three elected members and three independent members).
- Two, or possibly three, parish or town council members if the authority has responsibilities for those councils.
- Consideration of whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.

2) Structure of standards committees

In addition to their role as champion and guardian of the authority's ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct:

- Receiving and assessing complaints.
- Reviewing local assessment decisions.
- Conducting hearings following investigation.

To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested.

Effective practice – the Standards Board recommends:

- A structure of sub-committees or the standards committee acting as a pool of members to deal with the different roles.
- As a minimum, two separate sub-committees, one for taking initial assessment decisions and one for taking decisions on reviews.
- Subject to regulations, any sub-committee should also have an independent chair.
- A member who was involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something that needs to be investigated. It does not require deliberation of whether the conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.

3) Training

Effective practice – the Standards Board recommends:

- Standards committees are fully trained on the Code of Conduct.

- Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing.
- Independent chairs and vice-chairs are trained in chairing meetings.
- Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.

4) Local assessment criteria

- Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints.
- Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness.
- Monitoring officers will be able to acquire additional factual information which is readily available about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making. It should not include interviews or investigation.
- A complainant has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit further information in support of the complaint at the appeal stage in the process.

5) Role of the monitoring officer in the new framework

Effective practice – the Standards Board recommends:

- A pre-meeting with the independent chair.

- Preparing a summary of the allegation for the standards committee.
- Highlighting what the potential Code breaches are which underlie an allegation to the standards committee.
- Allowing case reading time for the monitoring officer and the standards committee.

6) Completing existing investigations

Many authorities will have outstanding investigations and the Standards Board encourages authorities to clear such investigations – particularly long-standing cases – before the new framework comes into effect.

Any authority experiencing difficulties in completing an investigation should seek advice and support from the Standards Board. Please contact Rebecca Strickson, Local Investigations Co-ordinator on **0161 817 5372**, or email rebecca.strickson@standardsboard.gov.uk.

7) Local assessment and the corporate complaints process

Effective practice – consider:

- How will the public be informed of the new arrangements?
- Who will receive and log an allegation?
- The production of an individual information leaflet for the local assessment process, possibly combined with the corporate complaints process.

8) Future monitoring by the Standards Board

The Standards Board is consulting a sample of authorities involved in a pilot study on proposals for an online information return system, which will allow authorities to tell us about how local arrangements are working.

This system is being designed based on what standards committees need locally, and to enable authorities to provide information to the Standards Board as simply as possible. Authorities will be able to use the system locally for their own records, to keep standards committees informed of their authority's ethical activities.

Proposals for the system include quarterly online returns on cases, which will be simple and quick to use, and nil returns if there is no activity to report.

9) Local assessment guidance

We will help standards committees by providing guidance in 2008 on all aspects of the local assessment process, subject to the passage of the relevant regulations, with a toolkit to include:

- Template notices for publicising the authority's Code of Conduct complaint process.
- Complaint assessment flowcharts.
- A standard complaint form.
- Template letters for each stage in the process.
- Template referral and non-referral decision notices.
- Guidance to assist with drafting criteria and for the authority to define its threshold for referral.
- Template terms of reference for assessment and review committees.

Local assessment information now available online

The Standards Board for England's website has been updated to feature a new section on local assessment of complaints.

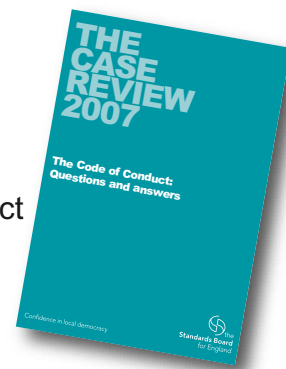
This section, accessible from the main menu, aims to keep you up to date on the new arrangements and what they will mean for local

authorities and the Standards Board's role. You can find out about any new developments in this area in the section's *Latest news* page.

If you have an enquiry about the proposed changes or anything else relating to local assessment, please phone **0845 078 8181** or email enquiries@standardsboard.gov.uk.

Case Review 2007

The *Case Review 2007* is a paragraph-by-paragraph analysis of the Code of Conduct and is available to download from our website.



We intend to reissue the *Case Review*, complete with its paragraph-by-paragraph analysis, on an annual basis to reflect the evolving interpretation and developing understanding of the Code.

Issues of the *Case Review 2007* were distributed to delegates at this year's Annual Assembly. Additional hard copies cost £20 and can be ordered by calling **0161 817 5300** or by emailing us at publications@standardsboard.gov.uk.

Satisfaction high for Annual Assembly

Almost 800 delegates attended the Standards Board's Sixth Annual Assembly of Standards Committees held at Birmingham ICC in October 2007. This year's conference was a sell-out event and our feedback suggests it was a resounding success, with a 97% satisfaction rate among delegates.

Called Down to detail: Making local regulation work, the conference provided a range of sessions to help build the skills, contacts and resources necessary to meet the challenges of local assessment. And, as the minister Parmjit Dhanda MP said on the opening day, it came at a

crucial time for standards committees, with the *Local Government and Public Involvement in Health Act 2007* having now been passed in Parliament, as discussed on page 2 of this *Bulletin*.

More information on the event is available from our conference website, www.annualassembly.co.uk, where you can also download materials such as newsletters, speeches, session slides and handouts.

Our next Annual Assembly will be held again at the ICC in Birmingham on 13 and 14 October 2008. For further information, please email: annualassembly2008@standardsboard.gov.uk

Stronger action needed on ethical governance

The latest Audit Commission self-assessment survey reveals that although councils are generally managing the ethical agenda well, there are a number of areas that require stronger action.

Survey background

The self-assessment survey was created by the Audit Commission in conjunction with the Standards Board for England and the Improvement and Development Agency (IDeA). It is one element of the four-part Ethical Governance Diagnostic Toolkit, which also includes a full diagnostic, a light-touch health check (provided by the IDeA) and workshops.

The survey helps councils assess and then, where necessary, improve their ethical governance procedures by helping them understand the key ethical governance issues they are now facing.

Key findings

- Members generally demonstrate high standards of behaviour.

- Leaders and chief executives are proving themselves as positive role models in many councils.
- Roles, responsibilities and relationships of members and officers relating to the ethical framework are not always clearly understood.
- Standards committees make a difference, but they don't always explain to other members, officers and the public what they do, the issues they are addressing, and the progress they are making.
- Communication, training, guidance and information are critical areas and often need more of a focus.

The survey has highlighted key areas that councils actively need to address to improve ethical behaviour and to fully meet the ethical agenda.

For further details on these findings or on the Ethical Governance Toolkit, please contact Hannah Pearson on 0161 817 5417 or email hannah.pearson@standardsboard.gov.uk.

Independent adjudicator abolished – new role for standards committees

Restrictions on political activities by certain local government staff were introduced under the *Local Government and Housing Act 1989*, which provided for the appointment of an independent adjudicator to grant dispensations for staff to engage in certain political activities.

Under the *Local Government and Public Involvement in Health Act 2007*, the role of independent adjudicator will be abolished and the duties transferred to local authority standards committees.

These duties are:

- To consider applications from local authority employees for exemption from political restriction in respect of their posts.

- Where appropriate, to issue directions requiring a local authority to include a post in the list of politically restricted posts it maintains.
- To give general advice, following consultation with appropriate parties, on the application of criteria for designation of a politically restricted post.

The timing of this transfer of functions from the independent adjudicator is a government matter, but the Standards Board urges authorities to ensure that their standards committees are made aware of the change.

We expect the relevant government department, Communities and Local Government, to issue guidance on this matter. The department may be contacted via www.communities.gov.uk or on 020 7944 4400.

Updated advice on suspensions

In Issue 21 of the *Bulletin*, the Standards Board outlined what a member should and should not do if they are suspended.

The decision by Collins J in *Livingstone v Adjudication Panel for England* [2006] EWHC 2533 (Admin), has led us to review that guidance.

A member of an authority who is suspended continues to be a member of that authority. They can quite properly refer to themselves as a councillor or as an elected member, although they should also make it clear that they are currently suspended.

However, someone who is fully suspended may not, while they are suspended, exercise any of the functions or responsibilities of membership of the authority. This means that they should not take part in any formal business of the authority, they should not use or have access to council facilities, and they should not receive their council allowances.

A member who is subject to partial suspension may not, during the period of that suspension, exercise the particular functions or responsibilities from which they are suspended. What those functions or responsibilities are will depend on the exact terms of their suspension, and the standards committee needs to describe precisely what particular functions are proscribed.

Under the 2001 Code of Conduct, two paragraphs applied “in any other circumstance” outside the functions or responsibilities of membership of an authority. As such, these provisions still applied to members who were suspended. The *Livingstone* judgment restricted the effect of these provisions.

The position now is that three paragraphs under the revised 2007 Code of Conduct will apply, “at any other time, where that conduct constitutes a criminal offence”.

The three paragraphs will be:

- Paragraph 3(2)(c) – intimidation of certain persons in relation to an allegation under the Code.
- Paragraph 5 – disrepute.
- Paragraph 6(a) – improperly conferring or securing an advantage or disadvantage.

However, this will only occur when amendments to Section 52 of the *Local Government Act 2000* come into effect. Until this time, the 2007 Code of Conduct does not apply to a person who has been suspended in respect of a relevant function of office for a relevant period of time, so long as the member makes it clear that they have been suspended and does not purport to act as a representative of their authority.

As an example, if a member is suspended from appointment to a planning committee for a period of two months, the relevant function is membership of the planning committee and the relevant time period is two months. The Code

does not currently apply to the member in respect of this function for this time period, so long as the member makes it clear they have been suspended. When the amendments to the *Local Government Act 2000* come into force, conduct that constitutes a criminal offence will also be covered in respect of this function during this time period, in relation to the three paragraphs of the Code listed above.

New Board members required

With the end of current members' terms approaching, Communities and Local Government is seeking to recruit a new chair, deputy chair and two new Board members for the Standards Board for England.

Communities and Local Government is particularly seeking applications for the Board member roles from candidates who have experience as an independent member of a local standards committee or as a local authority monitoring officer.

Full details of all the posts, including how to apply, can be found at www.clgstandards.org.

The closing date for applications for chair is 20 December 2007. For all other roles it is 14 January 2008.

The Standards Board at Christmas

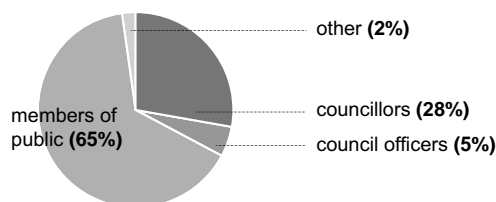
The Standards Board for England's offices will be open during the majority of the festive period, but will be closed on Christmas Day, Boxing Day and New Year's Day. We will endeavour to respond to your enquiries as soon as possible during this time.

Referral and investigation statistics

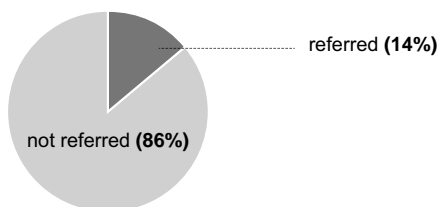
The Standards Board for England received 2,098 allegations between 1 April 2007 and 31 October 2007, compared to 1,996 during the same period in 2006.

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

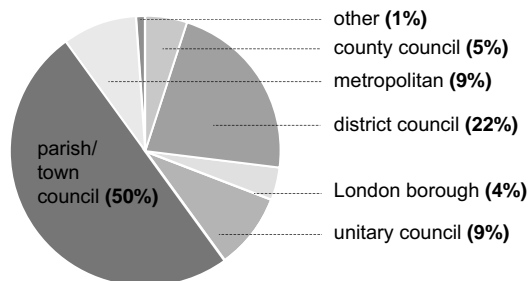
Source of allegations received



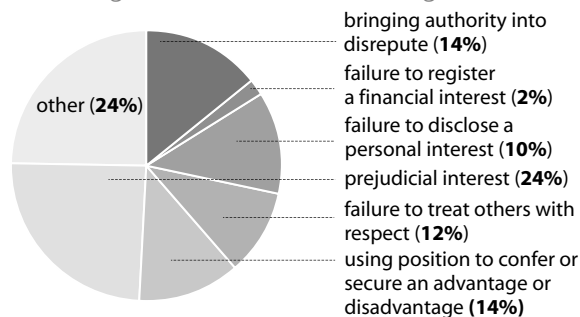
Allegations referred for investigation



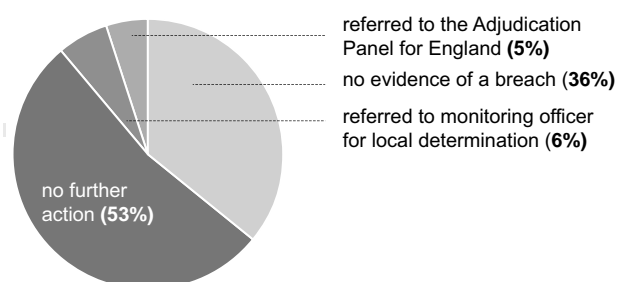
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



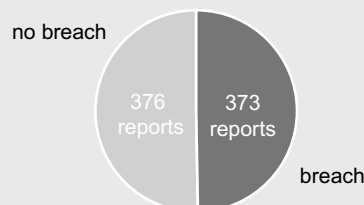
Final findings



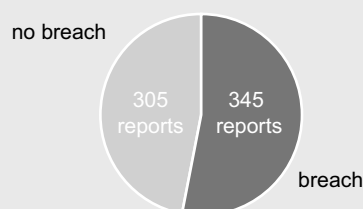
Local investigation statistics

For the period 1 April 2007 to 31 October 2007, ethical standards officers referred 171 cases for local investigation – equivalent to 55% of all cases referred for investigation. Since 1 April 2007 there have been eight appeals to the Adjudication Panel for England following standards committee hearings. Of all cases referred for local investigation since November 2004, we have received a total of 749 reports – please see below for a statistical breakdown of these cases.

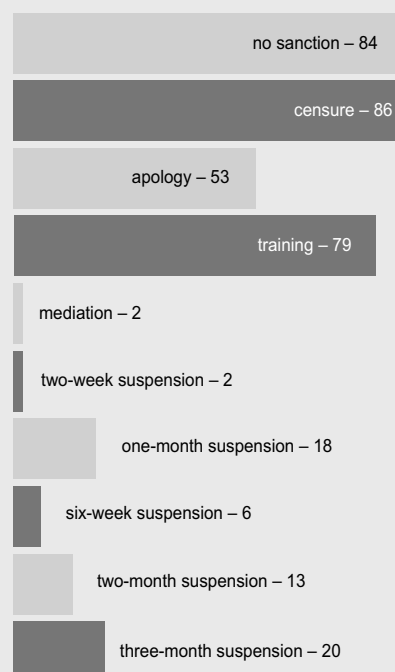
Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations



Learning and Development Update

Training or Networking events held for Members since the last meeting of the Standards Committee:

♦ **Modern Councillor e-learning portal**

Members have been invited to make use of the Modern Councillor e-learning portal www.moderncouncillor.com which has been provided free of charge and will continue to be free of charge for the next 2 years.

♦ **Championing Community Involvement in Health and Social Care Workshop – 19 November 2007**

The session was attended by 12 Councillors and provided an opportunity to find out more about Local Involvement Networks.

♦ **Christmas Party for Staff and Councillors – 15 December 2007**

51 people attended; a mixture of staff, councillors and partners. The objective was to provide an opportunity for staff and Councillors to mix and “network in a relaxed and informal setting, but whilst the party was fairly well supported it is not as successful in meeting its objectives as the Christmas Quiz.

♦ **Christmas Quiz for Staff and Councillors – 21 December 2007**

Once again this was a really popular event attracting 15 teams each having 6 people and was an excellent means of staff and Councillors interacting in an informal setting. A requirement of entry was that each team should comprise of at least one Councillor and one member of staff.

♦ **Planning Committee Training – Highways and Transport in the Planning Decision Making Process**

The presentation covered highways and transport in the planning decision-making process and, in particular, issues relating to parking standards, road hierarchy, transport sustainability, public transport and transport policy.

At the next meeting of the Member Development Steering Group on 8th February, consideration will be given to the Member Training and Development 2008/09 programme and the new Members Induction Programme planned for May 2008.

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Agenda Item 10

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

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