

## Swindon Borough Council

# Standards Committee

**Monday, 14 July 2008**

Committee Room 1, Civic Offices  
(Anticipated meeting room)

**At 5.00 p.m.**

<b>Councillors</b>	<b>Independent Members</b>	<b>Parish Representative</b>
Melanie Duff Peter Stoddart (Conservative)	Mr Keith Carby (Chair) Mr Trevor Davies (Vice-Chair) Mr Paul Morris Mr David Dawson	Mr Mike Compton Mr Martyn Cook
Maurice Fanning Fay Howard Derique Montaut (Deputy) (Labour)		

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

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

Swindon Borough Council can be contacted at the Civic Offices, Euclid Street, Swindon, SN1 2JH (Telephone 01793 445500)

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## **AGENDA**

**1. Apologies for Absence**

**2. Declarations of Interest**

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

**3. Minutes (Pages 1 - 2)**

To receive the minutes of the meeting held on 14 April 2008.

**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>
<b>9</b>	<b>1 and 2</b>

**6. Local Assessment of Standards Complaints (DLDS-B) (Pages 3 - 62)**

**7. Ethical Framework Update (DLDS-B), (HIA-CE) (Pages 63 - 146)**

**8. Annual Report and Work Programme Report (DLDS-B) (Pages 147 - 162)**

**9. Ethical Framework Compliance Update (DLDS-B), (HIA-CE) (Pages 163 - 166)**

4 July 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, or which may arise under the 'local filtering' arrangements for complaints as to breaches of the Members Code of Conduct;
- (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) to grant and supervise exemptions in relation to those politically restricted posts for which it is responsible
- (m) ensure the Council's Customer Feedback Policy 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;
- (n) 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;

- (o) approve the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (p) 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;
- (q) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (r) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

**STANDARDS COMMITTEE**

**MONDAY, 14 APRIL 2008**

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.

**26. 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.

**27. Minutes**

Resolved - That the minutes of the meeting held on 21<sup>st</sup> January 2008, be confirmed and signed as a correct record.

**28. Public Question Time**

No public questions were received during the meeting.

**29. 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 7 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 31 refers).

**30. Ethical Framework Update**

The Committee received a report from the Director of Law and Democratic Services (Monitoring Officer) on the following Ethical Framework matters:

a) Anti-Fraud and Corruption - The Committee noted that Council's achievement of Level 4 (top score) from the Audit Commission on arrangements to secure economy, efficiency and effectiveness in use of resources, including the quality of the anti-fraud and corruption work.

b) Standards Committee (England) Regulations 2008 and the Local Government and Public Involvement in Health Act 2007 - The Monitoring Officer tabled a publication from the Department of Communities and Local Government (DCLG), summarising responses received to the Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England. The Committee noted that this set out the intentions of the Government to issue the Standards Committee (England) Regulations 2008 very shortly, which would put in place arrangements for local assessment of Code of Conduct Complaints directly after local elections in May 2008. Other regulations would be issued later in the year to deal with all other elements of the proposals in the Consultation on Orders

and Regulations Relating to the Conduct of Local Authority Members in England. The Committee agreed to authorise the Monitoring Officer to amend the Committee's terms of reference as required as a result of the Regulations when issued.

c) Membership of the Committee - The Monitoring Officer advised that the recommendation to increase the membership of the Committee was going forward to Cabinet and Council in April, and that five applications had been received for the two Independent Member vacancies.

d) Parish Councils – Mr Mike Compton reported back on his visits to four Parish Councils to date to discuss how they were managing the implementation of the New Code of Conduct, to consider if any other ethical governance issues had arisen, or if the Borough Standards Committee could provide any additional support. Mr Compton confirmed that all parishes to date had reported that they were satisfied with their arrangements and that they had no issues to raise or causes for concern.

e) Standards Board Publications – The Standards Board Bulletin for February 2008 (Issue 37) and the Parish Council Standard (March 2008) were noted).

f) Independent Members Forum – Mr Trevor Davies presented the minutes of the Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members Forum held on 29<sup>th</sup> February 2008.

g) Annual Standards Committee Assembly – The Monitoring Officer and Mr Trevor Davies (Vice-Chair) confirmed that they would be attending the Annual Assembly on 13<sup>th</sup>-14<sup>th</sup> October 2008 on behalf of the Committee. Any other members wishing to attend were invited to advise the Monitoring Officer.

h) Work Programme Update – The Committee noted that two matters were outstanding from the Committee's Work Programme: Review of Hearings Procedure and Standards Committee Conference. The Committee supported the proposal to defer the review of the hearings protocol until the new arrangements for local determination of complaints could be incorporated. The Committee fully supported the proposal for a Standards Conference to take place later in the year focused around the theme of 'Standards in Partnership', and for this to be included in next year's work programme.

Resolved: 1) That the report be welcomed and noted.

2) That the Monitoring Officer be authorised to update the terms of reference of the Standards Committee, to take account of any changes to the remit of the Standards Committee arising from the Standards Committee (England) Regulations 2008 and the Local Government and Public Involvement in Health Act 2007.

3) That the Review of Hearings and Swindon Standards Committee Conference be included in the Committee's work programme for 2008/09.

### **31. Ethical Framework Compliance Update**

The Committee considered a report of the Law and Democratic Services (Monitoring Officer) and the Head of internal Audit concerning the progress and outcome in relation to various ethical framework compliance matters which included an update on five whistleblowing allegations. The Committee were pleased that the whistleblowing policy was being appropriately used. It was noted that there were no Member / Officer protocol or Code of Conduct complaints to report.

Resolved: That the report be noted.

## Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 2008

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

**Wards Affected:** All

### Purpose

- To advise the Committee of the coming into force of The Standards Committee (England) Regulations 2008 on 8 May 2008, and related guidance issued by the Standards Board on the local assessment of complaints under the Members Code of Conduct, so the Committee can make the necessary decisions in relation to their implementation.

### Recommendation

It is recommended that:

- 1) An Assessment Sub-Committee be established to comprise 3 members drawn from a panel of members of the Standards Committee and including one independent member (to act as Chair), one elected Member of Swindon Borough Council and one parish representative with the remit set out in Appendix '3' attached.
- 2) A Review Sub-Committee be established to comprise 3 members drawn from a panel of members of the Standards Committee and including one independent member (to act as Chair), one elected member and one parish representative provided that no member shall be selected to participate in a Review Sub-Committee where they have participated in the initial assessment of the complaint subject to review. The remit of the Review Sub-Committee be as set out in Appendix '4' attached.
- 3) The assessment criteria set out in Appendix '5' be adopted;
- 4) The Monitoring Officer be authorised to notify Members the subject of an allegation of the complaint as soon as practicable after receipt unless, in his opinion, it would be contrary to public interest or might prejudice the proper investigation of the complaint.
- 5) The Monitoring Officer be authorised to constitute and convene meetings of the Assessment Sub-Committee and Review Sub-Committee.
- 6) The Monitoring Officer be authorised to amend the current procedures for the conduct of investigations and hearings to comply with such regulations and statutory guidance as may be issued from time to time;
- 7) The Monitoring Officer, in consultation with the Chair of the Standards Committee be authorised to arrange appropriate publicity for the new arrangements in accordance with the regulations and guidance.

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

# Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 2008

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## 1. Reasons

- 1.1 At its last meeting on 14<sup>th</sup> April 2008, the Committee received an update on the anticipated regulations and guidance relating to the local filtering of complaints, and authorised the Monitoring Officer to update the terms of reference of the Standards Committee, to take account of any changes to the remit of the Standards Committee arising from the Standards Committee (England) Regulations 2008 and the Local Government and Public Involvement in Health Act 2007.
- 1.2 The regulations and guidance have now been issued so the Committee is able to adopt the necessary procedures and documentation for local filtering and assessment of complaints.

## 2. Detail

### *Background*

- 2.2 The Standards Committee (England) Regulations 2008 came into force on 8<sup>th</sup> May 2008. Under those regulations local Standards Committees are now responsible for the local assessment of Standards complaints. The Monitoring Officer issued a public notice advising of these changes and the Council's website has details of the changes and how the complaints procedure can be accessed by members of the public (Appendix '1').
- 2.3 As from 8<sup>th</sup> May all complaints which relate to breaches of the Code of Conduct by elected and co-opted members of the Borough Council, and parish councillors, will be referred to an Assessment Sub-Committee of the Standards Committee which will decide if the complaint should be investigated or some other form of further action taken.
- 2.4 The Standards Board for England ('the Standards Board') has issued guidance to which Standards Committees have to have regard when exercising their function, and a copy of the Guidance and accompanying Assessment and Review Flowcharts are attached as Appendix '2'.
- 2.5 So far as timescale for consideration of complaints is concerned, the Standards Board consider that the Assessment Sub-Committee should complete its initial assessment of an allegation within an average of 20 working days of it being received.
- 2.6 If the Assessment Sub-Committee decides that no action should be taken on the complaint, the complainant has a right to request a review of that decision. The request must be made by the complainant within 30 days of being notified of the decision. The review will then be conducted by a Review Sub-Committee whose members must be different from those who conducted the initial assessment. The review must be held within 3

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## Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 2008

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months. The Standards Board have again recommended that the review be completed within an average of 20 working days.

- 2.7 A suggested remit of the Assessment Sub-Committee is set out in Appendix '3', and the Review Sub-Committee in Appendix '4'. Each of the sub-committees must be chaired by an independent member. An elected member of the Borough Council must also be present if the allegation relates to a member of the Borough Council and a parish representative must be present if the matter relates to a parish councillor.
- 2.8 It is, therefore, recommended that the membership of each sub-committee to comprise, as a minimum, one independent member, one Borough councillor and one parish councillor.
- 2.9 The Assessment and Review Sub-Committees do not have to comply with the normal rules about publicity. Instead, after an initial assessment Sub-Committee, a written summary must be produced. This will include the name of the member subject to the complaint unless disclosure is not in the public interest or would prejudice the investigation.

### *Written Allegations*

- 2.10 Standards Committees are required to publish details of the address to which written allegations should be sent. The Borough Council has already published these details on the Council's website together with a pro-forma complaint form.
- 2.11 There is an additional requirement in the regulations for ongoing publicity of the arrangements so that they continue to be brought to the attention of members of the public.

### *Notifying the subject member of the complaint*

- 2.12 Whilst the duty to give the member a written summary of the complaint rests with the Standards Committee the regulations clearly state that this does not prevent the Monitoring Officer informing the member concerned at an early stage unless to do so would be contrary to public interest or might prejudice any subsequent investigation. The Committee will similarly need to consider the above before informing the member of the details of the allegation but, under the principles of natural justice, the balance should always be exercised in favour of disclosure.

### *The Assessment Sub-Committee*

- 2.13 The Assessment Sub-Committee, in considering the complaint will need to decide whether: -

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## Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 2008

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- (a) to take no action;
  - (b) to refer the complaint to the Standards Board (if they believe it cannot be dealt with locally because of the seniority of the member, conflict of interest, the seriousness of the complaint, etc.). The Standards Board can decline to accept the referral and will give reasons why they have reached that decision.
  - (c) refer the complaint to the Monitoring Officer.
- 2.14 If they decide to refer a case to the Monitoring Officer it can be either: -
- (a) for the Monitoring Officer to arrange for an investigation to be conducted or;
  - (b) for the Monitoring Officer to take some other form of action – this could include training, conciliation, etc. The Monitoring Officer must be consulted before this option is pursued.
- 2.15 The Monitoring Officer can refer a case back to the Standards Committee if the matter is more or less serious than originally thought or it is no longer in the public interest to pursue the matter because the member has died, is seriously ill or has resigned.
- 2.16 Where a matter is referred to a Monitoring Officer for alternative action, the Monitoring Officer must report back to the Standards Committee within three months on the action taken. If the Standards Committee is not satisfied with the action taken it can make a further direction to the Monitoring Officer.

### *The Review Sub - Committee*

- 2.17 If the Assessment Sub-Committee resolves to take no action, then the complainant can request a review within 30 days of being notified of the decision. This must be heard by different members to those who conducted the initial assessment. The review must be conducted within 3 months although the Standards Board recommend that it should be completed within 20 working days.
- 2.18 There is no right to request a review where the Assessment Sub-Committee resolves to take action other than investigation.

# Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 2008

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## *Assessment Criteria*

- 2.19 The Standards Board recommend that each Standards Committee sets out its assessment criteria to determine whether they will investigate a complaint or direct that some form of alternative action be taken. Suggested criteria for adoption by the Standards Committee are annexed at Appendix '5'.

## *Consideration of Reports by Standards Committee*

- 2.20 The Standards Committee must meet, following the completion of an investigation, to decide: -
- (a) If it accepts the finding in the report that there has been no breach of the Code – a finding of Acceptance; or
  - (b) that the matter should be considered at a hearing of the Standards Committee; or
  - (c) that the matter should be referred to the Adjudication Panel for determination – if the matter is serious and the sanctions available to the Standards Committee are unlikely to be sufficient.
- 2.21 This is an additional step in the process prior to the hearing itself and could be conducted by a sub-committee rather than the whole of the Committee.

## *Hearings by Standards Committee*

- 2.22 Hearings must be conducted within 3 months of completion of the investigating officers report either conducted locally or by an Ethical Standards Officer.
- 2.23 The hearing can be conducted by a sub-committee rather than the whole of the Standards Committee. In Swindon, the Standards Committee has in the past taken the view that hearings should be conducted by the Committee itself rather than a sub-committee, so as to widen the experience of all members of the Committee. The Standards Board has advised that there is no difficulty in the same members participating in the initial assessment and the hearing or in the review and the hearing (but not in both the initial assessment and review).
- 2.24 The procedure for conducting hearings is largely unchanged with the exception that the maximum sanction available to the Standards Committee has increased from 3 to 6 months suspension. It is recommended that the Monitoring Officer be authorised to amend the

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# Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 2008

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current procedures for the conduct of investigations and hearings to comply with such regulations and statutory guidance as may be issued from time to time.

## *Actions required by the Standards Committee*

2.25 The Standards Committee are required to take the following actions: -

- (a) To establish Assessment and Review Sub-Committees;
- (b) To determine assessment criteria; and
- (c) To decide if it wishes to establish sub-committees to receive Investigating Officers reports and to conduct hearings. If the volume of such investigations is relatively low it would be feasible for the whole committee to meet to receive the report and to resolve at that meeting to establish a sub-committee to conduct the hearing into the matter. It is suggested that we proceed on that basis at the present time and that the position be reviewed should the number of investigations significantly increase.

2.26 In the case of the Assessment and Review Sub-Committees, the most practical way to proceed is for the sub-committees to be drawn from a panel comprising all the members of the Standards Committee with a proviso that no member shall participate in a Review Sub-Committee where they have participated in the initial assessment of the complaint.

## **Alternative Options**

- The Standards Committee has to implement the statutory regulations. Where there is a choice as to how these are implemented, these are referred to in the report.

### **Risk Management**

#### *Financial and Procurement Implications*

- That there may be some increased costs to the authority associated with carrying out local assessment of complaints. This has been highlighted to the Committee previously, and it is anticipated that these will met from the Committee Meetings budget or members allowances budgets as appropriate.

#### *Legal / Human Rights Implications*

- The Standards Committee (England) Regulations 2008 give effect to the provisions of Part 10 of the Local Government and Public Involvement in Health Act 2007. The Council is required to implement the Regulations having regard to the statutory guidance issued by the Standards Board.

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# Local Assessment of Standards Complaints

Standards Committee

Date: 14 July 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 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.

## Background Papers and Appendices

- Appendix 1 - Complaints Form and Guidance
- Appendix 2 - Standards Board for England Guidance on Local Assessment of Complaints together with Assessment and Review Flowcharts
- Appendix 3 - Proposed remit of the Assessment Sub-Committee
- Appendix 4 - Proposed remit of the Review Sub-Committee
- Appendix 5 - Proposed Assessment Criteria

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

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## Swindon Borough Council

### COMPLAINT FORM CODE OF CONDUCT FOR MEMBERS

*(Please read the 'Information for Potential Complainants' before completing this Form).*

**To: The Monitoring Officer, Swindon Borough Council, Civic Offices,  
Euclid Street, Swindon, SN1 2JH**

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#### **A. Your details**

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1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Contact telephone:</b>	
<b>Email address:</b>	
<b>Signature:</b>	
<b>Date of complaint:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- Members of the Standards Sub-Committee (Initial Assessment)
- Monitoring Officer of the Borough Council
- the Parish Clerk (if applicable)

A brief summary of your complaint may also be shared, by the relevant Sub-Committee with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

2. Please tell us which complainant type best describes you:

- ☐ A member of the public
- ☐ An elected or co-opted Member of the Council
- ☐ An independent member of a Standards Committee
- ☐ A Member of Parliament
- ☐ A Monitoring Officer
- ☐ Other council employee, contractor or agent of the Council
- ☐ Other ( )

3. Equality Monitoring Form - please fill in the attached form.

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**B. Making your complaint**

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The sanctions available to a Standards Committee are governed by law and more serious sanctions are only available to the Adjudication Panel for England. For a brief summary of sanctions available, please see information at the end of this Form.

4. Please provide us with the name of the member(s) you believe have breached the Members Code of Conduct:

Title	First name	Last name	Specify Relevant Borough, Town or Parish Council

5. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account by the Standards Committee when it decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.



- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the allegation(s) being made occurred over 28 days of the alleged behaviour or conduct, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**(Continue on separate sheet(s), as necessary)**

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**C. Confidentiality of complainant and the complaint details**

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**Only complete this next section if you are requesting that your identity is kept confidential**

6. In the interests of fairness and in compliance with the rules of natural justice, we believe members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example: -
- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
  - may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Standards Sub-Committee (Initial Assessment) will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**(Continue on separate sheet(s), as necessary)**

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**D. Remedy sought**

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7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

**(Continue on separate sheet(s), as necessary)**

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**E. Additional information**

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8. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.
9. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
10. If you need any support in completing this form, please contact the Monitoring Officer (contact details are set out below) as soon as possible.

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**F. Process from here**

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11. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be presented to a meeting of the Standards Sub-Committee (Initial Assessment) for consideration/determination. You and the member against whom the complaint has been made will not be allowed to attend the deliberations of the Sub-Committee as the matter will be considered in private.

- 12.** The Sub-Committee may resolve to:
- (a) dismiss your complaint, with reasons;
  - (b) ask you for additional information, with reasons;
  - (c) refer your complaint to the Monitoring Officer for investigation (or other action);  
or
  - (d) refer your complaint to the Standards Board for England if the complaint does not fall within the jurisdiction of the Standards Committee.
- 13.** You will be notified after the meeting and given information on any further stage(s) in the process at that time.

Please complete this form and send it to:

Stephen Taylor  
The Monitoring Officer  
Swindon Borough Council  
Civic Offices  
Euclid Street  
Swindon  
SN1 2 JH

Tel: 01793 463612  
Fax: 01793 463366  
[staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk)



**SWINDON**  
BOROUGH COUNCIL

## Equalities Monitoring Form

Swindon Borough Council has a Corporate Equalities Strategy, which outlines our commitment to providing high quality, appropriate services which meets the needs of the local population. We aim to ensure that no one is discriminated against in the way they access or receive our services.

As part of that commitment, we are monitoring what we do and would be extremely grateful, if you could complete this questionnaire.

The information you provide will be used to improve service delivery and may be shared with other colleagues in the council for the purpose of monitoring our equalities policies and procedures.

Please place a tick in the boxes where applicable:

**Are You?** Male ☐ Female ☐

**Please indicate your current age band:**

Up to 19 ☐ 20-29 ☐ 30-39 ☐ 40-49 ☐ 50-59 ☐ 60-69 ☐ Over 70 ☐

**How would you describe your ethnic origin?**

**White**

- ☐ British
- ☐ Irish
- ☐ Polish
- ☐ Italian
- ☐ Any other White background

**Black or Black British**

- ☐ Caribbean
- ☐ African
- ☐ Any other Black background

**Chinese or other Ethnic Group**

- ☐ Chinese
- ☐ Any other ethnic group

**Mixed**

- ☐ White & Black Caribbean
- ☐ White & Black African
- ☐ White & Asian
- ☐ Any other Mixed Background

**Asian or Asian British**

- ☐ Indian
- ☐ Pakistani
- ☐ Bangladeshi
- ☐ Any other Asian background

**Do you consider yourself to have a disability?** Yes ☐ No ☐

If yes, please tick the appropriate box:

- |  |   |
|--|---|
| <input type="checkbox"/> Dyslexia                              | <input type="checkbox"/> Blind / Partially Sighted      |
| <input type="checkbox"/> Deaf / Hearing Impaired               | <input type="checkbox"/> Mental Health Difficulties     |
| <input type="checkbox"/> Wheelchair User / Mobility Impairment | <input type="checkbox"/> Unseen e.g. Diabetes, Epilepsy |
| <input type="checkbox"/> Other, please state: .....            |   |

If you require assistance in completing this form or require a copy of this form in another format please contact Customer Services on 01793 463725.

I agree for the information I have provided to be used by Swindon Borough Council to monitor Equalities with the Council.

Print Name

Signature

Date

I know that I can contact Customer Services at any time if I wish this information to be removed from the Council's records.

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## Swindon Borough Council

### Councillors Code Of Conduct Information For Potential Complainants

#### Changes to the complaints regime

From 8 May 2008, the responsibility for considering written complaints against an Elected or Co-opted Member of Swindon Borough Council or a Parish or Town Council in the Swindon Area for breach of the Members' Code of Conduct moved to the Borough Council's Standards Committee from the Standards Board for England.

In the event of it being a serious complaint it may be referred by the Standards Committee to the Standards Board for England for investigation and, for less serious matters, it may be referred to the Council's Monitoring Officer for investigation or other appropriate action (e.g. training / conciliation).

#### What this means to you

If you want to submit a written complaint about the conduct of an Elected or Co-opted Member of Swindon Borough Council or a Councillor of any of the Town or Parish Councils in the Swindon borough area, you must submit your complaint to the address shown below. You need to complete the necessary Complaint Form and provide relevant evidence to substantiate your allegation(s). The Form is available from the Monitoring Officer and the Council's website ([www.swindon.gov.uk](http://www.swindon.gov.uk)).

Please note that the Standards Sub-Committee can only deal with complaints about the alleged behaviour and conduct of a member. It will not deal with complaints about any of the Council's departments or matters not covered by the Council's Code of Conduct.

If you are unsure about any aspect of the process, please contact the Monitoring Officer before submitting any complaint(s).

#### What you should do if you wish to submit a written complaint

- ☒ Talk to / raise the matter with the Council's Monitoring Officer for general advice.
- ☒ Fully complete the attached Complaints Form (or ensure your letter of complaint addresses, in full, all of the issues covered in the Complaint Form).
- ☒ Submit the written complaint by post, e-mail or fax to the address below, preferably, within 28 days of alleged breach or explain sufficiently, in the Complaint Form (or letter), as to why the complaint is being submitted outside of this period of time.

#### Address for submission of a written complaint:

Mr Stephen Taylor, Monitoring Officer, Swindon Borough Council, Civic Offices  
Euclid Street, Swindon, SN1 2 JH  
Tel: 01793 463012  
Fax: 01793 463366  
Email: [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk)

## **Sanctions available to Standards Committees**

### ***Extract from 2008 Regulations - Findings of standards committees***

**19.**—(1) *Following a hearing held under regulation 18, a standards committee shall make one of the following findings—*

*(a) that the member who was the subject of the hearing had not failed to comply with the code of conduct of any authority concerned;*

*(b) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned but that no action needs to be taken in respect of the matters which were considered at the hearing; or*

*(c) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned and that a sanction under paragraph (2) or (3) should be imposed.*

*(2) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is no longer a member of any authority in respect of which it exercises any function under Part 3 of the Act, it shall censure that person.*

*(3) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is a member of an authority in respect of which it exercises any functions under Part 3 of the Act, it shall impose any one of, or any combination of, the following sanctions—*

*(a) censure of that member;*

*(b) restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions—*

*(i) are reasonable and proportionate to the nature of the breach; and*

*(ii) do not unduly restrict the person's ability to perform the functions of a member;*

*(c) partial suspension(a) of that member for a period not exceeding six months;*

*(d) suspension of that member for a period not exceeding six months;*

*(e) that the member submits a written apology in a form specified by the standards committee;*

*(f) that the member undertakes such training as the standards committee specifies;*

*(g) that the member participate in such conciliation as the standards committee specifies;*

*(h) partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the standards committee;*



*(i) partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the standards committee specifies;*

*(j) suspension of the member for a period not exceeding six months or until such time as the member has submitted a written apology in a form specified by the standards committee;*

*(k) suspension of the member for a period not exceeding six months or until such time as that member has undertaken such training or has participated in such conciliation as the standards committee specifies.*

*(4) Subject to paragraph (5) and regulation 21 any sanction imposed under this regulation shall commence immediately following its imposition by the standards committee.*

*(5) A standards committee may direct that the sanction imposed under any of subparagraphs (b) to (k) of paragraph (3) or, where a combination of such sanctions is imposed, such one or more of them as the committee specifies, shall commence on such date, within a period of six months after the imposition of that sanction, as the committee specifies.*

### **Sanctions available to Adjudication Panel for England**

*Pursuant to section 79(4) of the Local Government Act 2000, as amended, a person found to have breached the Code of Conduct for Members may be:-*

*(a) suspended or partially suspended from being a member or co-opted member of the relevant authority concerned, or*

*(b) disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority for a period of up to 5 years.*

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# LOCAL ASSESSMENT OF COMPLAINTS

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# introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the assessment of complaints that a member may have breached the Code of Conduct.

It details each stage of the assessment of complaints and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required.

The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the assessment of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the assessment of complaints must take this guidance into account when doing so.

You can contact the Standards Board for England on **0845 078 8181** or email **[enquiries@standardsboard.gov.uk](mailto:enquiries@standardsboard.gov.uk)**

# introduction

## Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of the local assessment of complaints. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue more regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

## Background

More than 100,000 people give their time as members of authorities. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly.

Anyone who considers that a member may have breached the Code of Conduct may make a complaint to that member's local

standards committee. Each complaint must then be assessed to see if it falls within the authority's legal jurisdiction. A decision must then be made on whether some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that the committee assessing the complaint has made up its mind about the allegation. It simply means that the committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

The process for dealing with matters at a local level should be the same for all members. It must be fair and be seen to be fair.

## Responsibilities

The assessment of complaints that a member may have breached the Code of Conduct is a new function for standards committees. It was previously undertaken centrally by the Standards Board for England.

Where a member is the subject of an allegation, we shall refer to that member as a **subject member**.

We shall use the term **independent member** to describe a person – not a member or officer of that or any other relevant authority – who is appointed to an authority's standards committee. Independent members work with the

# introduction

authority to develop and maintain standards of conduct for members and are appointed under Section 53 of the Local Government Act 2000 and Regulation 5 of the regulations. At least 25% of the members of a standards committee must be independent members.

In order to carry out its functions efficiently and effectively, the standards committee must establish sub-committees. Creating sub-committees will allow the separate functions involved in the handling of cases to be carried out without conflicts of interest. These functions are:

- the **initial assessment** of a complaint received by the standards committee
- any **request** a standards committee receives from a complainant **to review its decision to take no action in relation to a complaint**

The standards committee must establish a sub-committee which is responsible for assessing complaints that a member may have breached the Code. We shall refer to this as the **assessment sub-committee**.

The assessment sub-committee will need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

A complainant may make a request for a review of a standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a sub-committee which is

responsible for carrying out these reviews. We shall refer to this as the **review sub-committee**.

This committee will also need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

There should be a minimum of three independent members on the standards committee to ensure that there is an independent member available without a conflict of interest for both the assessment and review sub-committees.

The standards committee can then effectively carry out these statutory functions, allowing for the situation of one independent member of the standards committee being absent or unavailable.

If the authority is responsible for any parish or town councils there should also be a minimum of three parish or town council representatives on the standards committee. This will ensure that there is a parish or town council representative available without a conflict of interest for both the assessment and review sub-committees when a complaint is considered about a member of a parish or town council.

The assessment and review sub-committees are not required to have fixed membership or a fixed chair.

Standards committee members who have been involved in decision making on the



# introduction

initial assessment of a complaint must not take part in the review of that decision. This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

Standards committee members involved in a complaint's initial assessment, or in a review of a standards committee's previous decision to take no further action, can take part in any subsequent standards committee hearing.

The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The assessment and review sub-committees make no findings of fact. Therefore, a member involved at the initial stage or the review stage may participate in a subsequent hearing, because a conflict of interest does not automatically arise.

# pre-assessment

## Publicising the complaints system

Each authority is required to publish a notice detailing where Code of Conduct complaints should be sent to. This is to ensure that members of the public are aware of the change of responsibility for handling Code complaints and what the process entails. If an authority is responsible for parish and town councils, the notice should make this clear.

The complaints system may be publicised through:

- an authority's website
- advertising in one or more local newspapers
- an authority's own newspaper or circular
- notices in public areas such as local libraries or authority reception areas

It is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary.

The standards committee must also continue to publicise regularly the address that misconduct complaints should be sent to. In addition, the standards committee needs to alert the public to any changes in such arrangements.

Authorities need to think carefully about how publicity for their complaints system is worded. This is to ensure that members of the public are clear about how to complain, who to complain to, and if there may be an alternative to a formal complaint to the standards committee.

Authorities should also consider whether their constitution requires an amendment to reflect the introduction of the local assessment of complaints. The constitution should make it clear that the citizen's right is to complain to the local standards committee and not to the Standards Board for England.

The standards committee must publish, in whatever manner it considers appropriate, details of the procedures it will follow in relation to any written allegation received about a member.

## The submission of complaints and accessibility

There are two main ways in which authorities can set up procedures for the submission of complaints that a member may have breached the Code of Conduct:

- Authorities may choose to integrate the making of Code complaints into the existing complaints framework. This will mean that when a complaint is received, it can be analysed to decide which of the complaints processes is most appropriate. The authority can then advise the complainant accordingly.
- Authorities may choose to develop a separate process for Code complaints so the process for such complaints is distinct from all other complaints.

When deciding which option is most appropriate, authorities should consider that some complainants will not know where to direct their complaint.

# pre-assessment

Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with incoming complaints will need to be alert to a complaint that a member may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the assessment sub-committee for consideration.

Where an authority is responsible for parish and town councils, it should make this clear. It should also consider whether a separate complaint form or section of a complaint form should be used.

Where an existing complaint system is used, complaint forms may need to be amended to take into account complaints under the Code. Alternatively, authorities that choose to develop a separate system for the submission of Code complaints may produce a separate complaint form for this.

Without using a separate complaint form, authorities may find it sufficient to give clear guidelines as to the information that complainants need to provide.

This should include:

- who the complaint is about and the authority or authorities that the member belongs to
  - details of the alleged misconduct including, where possible, dates, witness details and other supporting information
  - equality monitoring data if applicable, for example nationality of the complainant
  - a warning that the complainant's identity will normally be disclosed to the subject member. **Note:** in exceptional circumstances, if it meets relevant criteria and at the discretion of the standards committee, this information may be withheld.
- Complaints must be submitted in writing. This includes fax and electronic submissions. However, the requirement for complaints to be submitted in writing must be read in conjunction with the Disability Discrimination Act 1995 and the requirement to make reasonable adjustments.
- An example of this would be in assisting a complainant who has a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.
- Authorities should also consider what support should be made available to
- the complainant's name, address and other contact details
  - complainant status, for example, member of the public, fellow member or officer

# pre-assessment

complainants where English is not the complainant's first language.

When a complaint is addressed to the authority's monitoring officer, the monitoring officer should determine whether the complaint should be directed to the assessment sub-committee or whether another course of action is appropriate. If the complaint is clearly not about member conduct, then the monitoring officer does not have to pass it to the assessment sub-committee.

A complaint may not necessarily be made in writing, for example it may be a concern raised with the monitoring officer verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing to the standards committee. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant.

## Acknowledging receipt of a complaint

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them. When considering whether to do so, they should bear in mind the standards committee's procedures with regard to withholding summaries. Please see the section on **Notification requirements** on **page 18** for further information.

The notification can say that a complaint has been made, and state the name of the

complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint, and the date of this meeting, if known.

If a monitoring officer chooses to tell a subject member, the monitoring officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In particular, the monitoring officer will need to consider any of the restrictions set out in Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the regulations. These are the provisions which deal with restrictions on disclosure of information. Additionally, the impact of the Data Protection Act 1998 should be considered.

Only the standards committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member.

The administrative processes that the authority adopts should be agreed with the standards committee as part of the processes and procedures that they must publish.

# pre-assessment

## Pre-assessment reports and enquiries

Authorities may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the assessment sub-committee to consider. This could, for example, set out the following details:

- whether the complaint is within jurisdiction
- the paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified
- a summary of key aspects of the complaint if it is lengthy or complex
- any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:
  - a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
  - b) minutes of meetings
  - c) a copy of a member's entry in the register of interests
  - d) information from Companies House or the Land Registry
  - e) other easily obtainable documents

Pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member.

Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee's decision or make the decision for it.

Officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted.

# assessment

## Initial tests

Before assessment of a complaint begins, the assessment sub-committee should be satisfied that the complaint meets the following tests:

- it is a complaint against one or more named members of the authority or an authority covered by the standards committee
- the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

## Developing assessment criteria

The standards committee or its assessment sub-committee will need to develop criteria against which it assesses new complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all new complaints by established criteria will also protect the committee members from accusations of bias. Assessment criteria can be reviewed and amended as necessary but this should not be done during consideration of a matter.

In drawing up assessment criteria, standards committees should bear in mind the importance of ensuring that complainants are confident that complaints about member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

To assist in developing the criteria for accepting a complaint or for deciding to take no further action on it, a standards committee or assessment sub-committee may want to ask itself the following questions and consider the following response statements. These will provide a good foundation for developing assessment criteria in the context of local knowledge and experience:

# assessment

**Q: Has the complainant submitted enough information to satisfy the assessment sub-committee that the complaint should be referred for investigation or other action?**

If the answer is **no**: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the assessment sub-committee is taking no further action on this complaint.”

**Q: Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the assessment sub-committee wish to refer the complaint to the monitoring officer of that other authority?**

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the standards committee of that authority to consider.”

**Q: Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**

If the answer is **yes**: “The matter of complaint has already been subject to a

previous investigation or other action and there is nothing more to be gained by further action being taken.”

**Q: Is the complaint about something that happened so long ago that there would be little benefit in taking action now?**

If the answer is **yes**: “The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted.”

**Q: Is the complaint too trivial to warrant further action?**

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

**Q: Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?**

If the answer is **yes**: “The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted”.

The assessment criteria that the standards committee adopts should be made publicly available.



# decision

## Initial assessment decisions

The assessment sub-committee should complete its initial assessment of an allegation within an average of 20 working days, to reach a decision on what should happen with the complaint.

The assessment sub-committee is required to reach one of the three following decisions on a complaint about a member's actions in relation to the Code of Conduct:

- referral of the complaint to the monitoring officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority
- referral of the complaint to the Standards Board for England
- no action should be taken in respect of the complaint

New rules have been made about what the assessment sub-committee must do when a decision has been made. Please see the section on **Access to meetings and decision making** on **page 22** for further information.

The time that the assessment sub-committee takes to carry out its initial assessment of a complaint is key in terms of being fair to the complainant and the subject member. It is also in the public interest to make a timely decision within an average of 20 working days. The assessment sub-committee should

therefore aim to achieve this target wherever possible.

## Referral for local investigation

When the assessment sub-committee considers a new complaint, it can decide that it should be referred to the monitoring officer for investigation.

The monitoring officer must write to the relevant parties informing them of the decision and, if appropriate, advising who will be responsible for conducting the investigation. Please see the section on **Notification requirements** on **page 18** for further information.

## Referral to the Standards Board for England

In most cases, authorities will be able to deal with the investigation of complaints concerning members of their authorities and, where relevant, the parish and town councils they are responsible for. However, there will sometimes be issues in a case, or public interest considerations, which make it difficult for the authority to deal with the case fairly and speedily. In such cases, the assessment sub-committee may wish to refer a complaint to the Standards Board to be investigated by an ethical standards officer.

If the assessment sub-committee believes that a complaint should be investigated by the Standards Board, it must take immediate steps to refer the matter. It would be helpful if the assessment



# decision

sub-committee let us know the paragraph or paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why it cannot be dealt with locally.

We may accept cases for investigation by an ethical standards officer, take no action, or refer cases back to the standards committee which referred them. When deciding which of these actions to take, we will be principally concerned with supporting the ethical framework nationally and locally.

We will take the following matters into account in deciding which cases we should accept in the public interest:

- Does the standards committee believe that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for them to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's cabinet or standards committee?
- Does the standards committee believe that the status of the complainant or complainants would make it difficult for the standards committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or standards committee, the chief executive, the monitoring officer or other senior officer?
- Does the standards committee believe that there is a potential conflict of interest of so many members of the standards committee that it could not properly monitor the investigation?
- Does the standards committee believe that there is a potential conflict of interest of the monitoring officer or other officers and that suitable alternative arrangements cannot be put in place to address the conflict?
- Is the case so serious or complex, or involving so many members, that it cannot be handled locally?
- Will the complaint require substantial amounts of evidence beyond that available from the authority's documents, its members or officers?
- Is there substantial governance dysfunction in the authority or its standards committee?
- Does the complaint relate to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority?
- Does the complaint raise significant or unresolved legal issues on which a national ruling would be helpful?
- Might the public perceive the authority to have an interest in the outcome of a case? For example if the authority could be liable to be judicially reviewed if the complaint is upheld.
- Are there exceptional circumstances which would prevent the authority or its

# decision

standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation?

We will normally inform the monitoring officer within ten working days whether we will accept a case or whether we will refer it back to the standards committee, with reasons for doing so. There is no appeal mechanism against our decision.

## **Referral back to a standards committee from the Standards Board for England**

If we decline to investigate a complaint referred to us, we will normally send it back to the authority's standards committee with the reasons why. The standards committee must then decide what action should be taken next.

The assessment sub-committee must again take an assessment decision and should complete this within an average of 20 working days.

This may be a decision not to take any further action, to refer the matter for local investigation, or to refer the matter for some other form of action. As the assessment sub-committee initially decided that the matter was serious enough to be referred to the Standards Board for investigation, it is likely that it will still think that it should be investigated.

However, if the circumstances of the complaint have changed since the

assessment sub-committee's original decision, it may be reasonable to take a different decision. This decision will again need to be communicated to relevant parties in the same way as the original decision was. Please see the section on **Notification requirements** on **page 18** for further information.

If we decline to investigate a case referred to us, we may, in the circumstances, offer guidance or give a direction to the standards committee, which may assist with the standards committee's decision.

In exceptional circumstances, we may decide to take no further action on a complaint referred to us by a standards committee. This is likely to be where circumstances have changed so much that there would be little benefit arising from investigation or other action, or because we do not consider that the complaint discloses a breach of the Code of Conduct.

## **Referral for other action**

When the assessment sub-committee considers a new complaint, it can decide that other action to an investigation should be taken and it can refer the matter to the monitoring officer to carry this out. It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. The assessment sub-committee must consult its monitoring officer before reaching a decision to take other action.

# decision

The suitability of other action is dependent on the nature of the complaint. Certain complaints that a member has breached the Code of Conduct will lend themselves to being resolved in this way. They can also indicate a wider problem at the authority concerned. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way to resolve matters that are less serious. Other action can be the simplest and most cost effective way of getting the matter resolved, helping the authority to work more effectively, and of avoiding similar complaints in the future.

The assessment sub-committee can choose this option in response to an individual complaint or a series of complaints. The action decided upon does not have to be limited to the subject member or members. In some cases, it may be less costly to choose to deal with a matter in this way rather than through an investigation, and it may produce a more effective result.

It is not possible to set out all the circumstances where other action may be appropriate, but an example is where the authority to which the subject member belongs appears to have a poor understanding of the Code and authority procedures. Evidence for this may include:

- a number of members failing to comply with the same paragraph of the Code
- officers giving incorrect advice
- failure to adopt the Code
- inadequate or incomplete protocols for use of authority resources

Other action may also be appropriate where a breakdown in relationships within the authority is apparent, evidence of which may include:

- a) a pattern of allegations of disrespect, bullying or harassment
- b) factionalised groupings within the authority
- c) a series of 'tit-for-tat' allegations
- d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures

The assessment sub-committee is encouraged to consider other action on a practical basis, taking into account the needs of their own authority and of the parish and town councils which they serve. Everyone involved in the process will need to understand that the purpose of other action is not to find out whether the member breached the Code – the decision is made as an alternative to investigation. If the monitoring officer embarks on a course of other action, they should emphasise to the parties concerned that no conclusion has been reached on whether the subject member failed to comply with the Code.

Complaints that have been referred to the monitoring officer for other action should not then be referred back to the standards committee if the other action is perceived to have failed. This is unfair to the subject member, and a case may be jeopardised if it has been discussed as part of a mediation process. There is also a difficulty with defining 'failure' in terms of

# decision

the other action undertaken. The decision to take other action closes the opportunity to investigate and the assessment sub-committee should communicate this clearly to all parties.

Standards committees may find it helpful to introduce a requirement for the parties involved to confirm in writing that they will co-operate with the process of other action proposed. An example of this would be writing to the relevant parties outlining:

- what is being proposed
- why it is being proposed
- why they should co-operate
- what the standards committee hopes to achieve

However authorities choose to take this forward, the important thing is that all parties are clear about what is, and what is not, going to happen in response to the complaint.

The following are some examples of alternatives to investigation:

- arranging for the subject member to attend a training course
- arranging for that member and the complainant to engage in a process of conciliation
- instituting changes to the procedures of the authority if they have given rise to the complaint

Standards committees may find that resolving a matter in this way is relatively

quick and straightforward compared to a full investigation.

## Decision to take no action

The assessment sub-committee can decide that no action is required in respect of a complaint. For example, this could be because the assessment sub-committee does not consider the complaint to be sufficiently serious to warrant any action. Alternatively, it could be due to the length of time that has elapsed since the alleged conduct took place and the complaint was made. The decision reached by the assessment sub-committee and the reasons for it should adhere to the assessment criteria that the standards committee or assessment sub-committee have agreed.

It is important to underline that where no potential breach of the Code of Conduct is disclosed by the complaint, no matter what its source or whoever the subject member, no action can be taken by the standards committee in respect of it. The matter of referral for investigation or other action therefore does not arise.

The complainant should be advised of their right to ask for a review of a decision to take no action. They should be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review. The complainant should be advised of the date by which their review request should be received by the standards committee.

# decision

That date is 30 days from the date on the initial assessment decision notice.

## **Notification requirements – local assessment decisions**

If the assessment sub-committee decides to take no action over a complaint, then as soon as possible after making the decision it must give notice in writing of the decision and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed, the assessment sub-committee must explain in the decision notice what the allegation was and why they believe this to be the case. This notice must be given to the relevant parties.

The relevant parties will be the complainant and the subject member. If the subject member is a parish or town councillor, their parish or town council must also be notified. We suggest that the standards committee sends out its decision notice within five working days of the decision being made.

If the assessment sub-committee decides that the complaint should be referred to the monitoring officer or to the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must explain why a particular referral decision has been made. After it has made its decision, the assessment sub-committee does not have

to give the subject member a summary of the complaint, if it decides that doing so would be against the public interest or would prejudice any future investigation.

This could happen where it is considered likely that the subject member may intimidate the complainant or the witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. The assessment sub-committee needs to take such possibilities into account when developing with its monitoring officer any process that notifies a member about a complaint made against them.

The assessment sub-committee should take advice from the monitoring officer in deciding whether it is against the public interest to inform the subject member of the details of the complaint made against them. It should also take advice from the monitoring officer in deciding whether informing the subject member of the details of the complaint would prejudice a person's ability to investigate it.

The monitoring officer will need to carry out an assessment of the potential risks to the investigation. This is to determine whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member. An example of this is allowing the subject member to preserve any evidence. The monitoring officer should then advise the assessment sub-committee accordingly.

# decision

The assessment sub-committee can use its discretion to give limited information to the subject member if it decides this would not be against the public interest or prejudice any investigation. Any decision to withhold the summary must be kept under review as circumstances change.



# review

## Reviews of 'no further action' decisions

If the assessment sub-committee decides not to take any action on a complaint, then the complainant has a right of review over that decision.

The review sub-committee must carry out its review within a maximum of three months of receiving the request. We recommend that the review sub-committee adopts a policy of undertaking the review within the same timescale as the initial assessment decision is taken, aiming to complete the review within an average of 20 working days.

The review must be, and must be seen to be, independent of the original decision. Members of the assessment sub-committee who made the original decision must not take part in the review of that decision. A separate review sub-committee, made up of members of the standards committee, must consider the review.

The review sub-committee should apply the same criteria used for initial assessment. The review sub-committee has the same decisions available to it as the assessment sub-committee.

There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such cases, the review sub-committee should consider carefully if it is more appropriate to pass this to the assessment sub-committee to be handled as a new

complaint. In this instance, the review sub-committee will still need to make a formal decision that the review request will not be granted.

For example, a review may be more appropriate if a complainant wishes to challenge that:

- not enough emphasis has been given to a particular aspect of the complaint
- there has been a failure to follow any published criteria
- there has been an error in procedures

However, if more information or new information of any significance is available, and this information is not merely a repeat complaint, then a new complaint rather than a request for review may be more suitable.

## Notification requirements – reviews of local assessment decisions

If the standards committee receives a review request from the complainant, it must notify the subject member that it has received the request. We recommend that all relevant parties are notified when a review request is received.

When the review sub-committee reviews the assessment sub-committee's decision it has the same decisions available to it that the assessment sub-committee had. It could be decided that no action should be taken on the complaint. In this case, the review sub-committee must, as soon as

# review

possible after making the decision, give the complainant and the subject member notice in writing of both the decision and the reasons for the decision. If the subject member is a parish or town councillor, the review sub-committee must also give written notice to the parish or town council.

If it is decided that the complaint should be referred to the monitoring officer or to the Standards Board for England, the standards committee should write to the relevant parties telling them this and letting them have a summary of the complaint. The decision notice must explain why that particular referral decision has been made.

We recommend that the review sub-committee sends out its decision notice within five working days of the decision being made.



# other issues to consider

## Access to meetings and decision making

Initial assessment decisions, and any subsequent review of decisions to take no further action on a complaint, must be conducted in closed meetings. These are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.

Such meetings may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. As such, a standards committee undertaking its role in the assessment or review of a complaint is not subject to the following rules:

- rules regarding notices of meetings
- rules on the circulation of agendas and documents
- rules over public access to meetings
- rules on the validity of proceedings

Instead, Regulation 8 of the regulations sets out what must be done after the assessment or review sub-committee has considered a complaint. The new rules require a written summary to be produced which must include:

- the main points considered
- the conclusions on the complaint
- the reasons for the conclusion

The summary must be written having regard to this guidance and may give the name of the subject member unless doing so is not in the public interest or would prejudice any subsequent investigation.

The written summary must be made available for the public to inspect at the authority's offices for six years and given to any parish or town council concerned. The summary does not have to be available for inspection or sent to the parish or town council until the subject member has been sent the summary.

In limited situations, a standards committee can decide not to give the written summary to the subject member when a referral decision has been made and, if this is the case, authorities should put in place arrangements which deal with when public inspection and parish or town council notifications will occur. This will usually be when the written summary is eventually given to the subject member during the investigation process. Please see the section on **Notification requirements** on **page 18** for further information.

Review of a decision to take no further action on a complaint is not subject to access to information rules in respect of local government committees.

In addition, authorities must have regard to their requirements under Freedom of Information and Data Protection legislation.

## Withdrawing complaints

There may be occasions when the complainant asks to withdraw their complaint prior to the assessment sub-committee having made a decision on it.

# other issues to consider

In these circumstances, the assessment sub-committee will need to decide whether to grant the request. It would be helpful if the assessment sub-committee had a framework by which to consider such requests. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the subject member, or an associate of theirs, to withdraw the complaint?

## Multiple and vexatious complaints

An authority may receive a number of complaints from different complainants about the same matter. Authorities should have procedures in place to ensure that they are dealt with in a manner that is a practical use of time and resources.

A number of complaints about the same matter may be considered by the assessment sub-committee at the same meeting. If so, an officer should be asked to present one report and recommendation that draws together all the relevant

information and highlights any substantively different or contradictory information. However, the assessment sub-committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

Unfortunately, a small number of people abuse the complaints process. Authorities may want to consider developing a policy to deal with this. For example, they could bring it within the scope of any existing authority policies on vexatious or persistent complainants, or take action to limit an individual's contact with the authority.

However, standards committees must consider every new complaint that they receive in relation to the Code of Conduct. If the standards committee has already dealt with the same complaint by the same person and the monitoring officer does not believe that there is any new evidence, then a complaint does not need to be considered.

A person may make frequent allegations about members, most of which may not have any substance. Despite this, new allegations must still be considered as they may contain a complaint that requires some action to be taken.

Even where restrictions are placed on an individual's contact with the authority, they cannot be prevented from submitting a complaint.

Vexatious or persistent complaints or complainants can usually be identified through the following patterns of

# other issues to consider

behaviour, which may become apparent in the complaints process:

- repeated complaints making the same, or broadly similar, complaints against the same member or members about the same alleged incident
- use of aggressive or repetitive language of an obsessive nature
- repeated complaints that disclose no potential breach of the Code
- where it seems clear that there is an ulterior motive for a complaint or complaints
- where a complainant refuses to let the matter rest once the complaints process (including the review stage) has been exhausted

There are ways that authorities can reduce the resources expended. For example, they can allow a vexatious complainant to deal with only one named officer or refuse email communication. Authorities can also include a statement in their referrals criteria that malicious or tit-for-tat complaints are unlikely to be investigated unless they also raise serious matters. This will allow authorities to decide not to investigate or take other action on such complaints if appropriate.

## Case history

Authorities should consider developing a complaints management system. Records of all complaints and their outcomes

should be retained in line with the authority's records management policy. This policy may need to be amended to reflect the authority's new responsibilities in the local assessment of complaints.

Documents that relate to complaints that the assessment sub-committee decided not to investigate should be kept for a minimum of 12 months after the outcome of any review that has been concluded. This is in case of legal challenges, and also in order to meet the Standards Board for England's monitoring requirements.

Authorities should set a time limit for records retention after the outcome of any hearing or result of further action in respect of a complaint is known. This should be set in accordance with the authority's own file retention policy and in accordance with the principles of data protection.

Authorities should keep details of cases in a format that is easy to search by complainant name, by member name, and by authority where an authority is responsible for parish and town councils. Authorities may also want to search by paragraph of the authority's Code of Conduct.

Old cases may be relevant to future complaints if they show a pattern of behaviour. Authorities will also be able to identify complaints about the same matter that have already been considered by the standards committee.

# other issues to consider

Authorities will need to consider records management alongside the law on keeping records of committees.

## Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them. However, there may be instances where the complainant asks for their identity to be withheld. Such requests should only be granted in exceptional circumstances and at the discretion of the assessment sub-committee. The assessment sub-committee should consider the request for confidentiality alongside the substance of the complaint itself.

Authorities should develop criteria by which the assessment sub-committee will consider requests for confidentiality. These may include the following:

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
- The complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle-blowing policy).
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such

circumstances, standards committees may wish to request medical evidence of the complainant's condition.

In certain cases, such as allegations of bullying, revealing the identity of the complainant may be necessary for investigation of the complaint. In such cases the complainant may also be given the option of requesting a withdrawal of their complaint.

When considering requests for confidentiality, the assessment sub-committee should also consider whether it is possible to investigate the complaint without making the complainant's identity known.

If the assessment sub-committee decides to refuse a request by a complainant for confidentiality, it may wish to offer the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject member. The assessment sub-committee will need to decide where the balance lies in the particular circumstances of each complaint.

## Anonymous complaints

Authorities should publish a statement setting out how complaints received anonymously will be dealt with. The assessment sub-committee may decide that an anonymous complaint should only be referred for investigation or some other action if it includes documentary or

# other issues to consider

photographic evidence indicating an exceptionally serious or significant matter. If so, this needs to be included in the standards committee's assessment criteria.

## Members with conflicts of interest

**Note:** this section does not deal with any interests which may arise under the Code of Conduct, which members must also keep in mind and deal with as appropriate.

A member of the standards committee who was involved in any of the following decisions **can** be a member of the committee that hears and determines the complaint at the conclusion of an investigation:

- the initial assessment decision
- a referral back for another assessment decision
- a review of an assessment decision

The assessment decision relates only to whether the complaint discloses something that needs to be investigated or referred for other action. It does not determine whether the conduct took place or whether it was a breach of the Code. The standards committee hearing the case will decide on the evidence before it as to whether the Code has been breached and, if so, if any sanction should apply.

The assessment process must be conducted with impartiality and fairness. There may be cases where it would not be

appropriate for a member to be involved in the process, even if not disqualified from doing so by law. Any member who is a complainant or one of the following should not participate in the assessment process:

- anyone closely associated with someone who is a complainant
- a potential witness or victim relating to a complaint

In certain situations, a standards committee member might initially be involved with the initial assessment of a case that is then referred to the Standards Board for England or to the authority's monitoring officer. The case might then be referred back to the standards committee to consider again. In such circumstances, the member may continue their participation in the assessment process.

However, a standards committee member who is involved at these assessment stages of the process, either initially or following a referral back from the Standards Board or monitoring officer, must not participate in the review of that decision.

Authorities should ensure that their standards committee has sufficient independent members, and parish or town representatives where applicable, for the framework to operate effectively. This should allow for circumstances where members are unable to participate for reasons of conflict of interest.



# other issues to consider

## Officers with conflicts of interest

An officer who has previously advised a subject member or who has advised the complainant about the issues giving rise to a complaint should consider whether they can properly take part in the assessment process. For example, a conflict of interest could mean that the officer will not be able to:

- draft letters
- prepare reports
- contact complainants
- attend the final hearing of that complaint

The officer should also consider whether they should stand aside due to their prior involvement, which has been such that others involved may view them as biased. Officers should take legal advice if they have any doubts.

If the officer has taken part in supporting the assessment or hearing process then they should not be involved in the investigation of that matter. This is so that the officer can minimise the risk of conflicts of interest that may arise and ensure fairness for all parties.

The monitoring officer should act as the main adviser to the standards committee unless the monitoring officer has an interest in a matter that would prevent them from performing the role independently.

If the monitoring officer is unable to take part in the assessment process, their role

should be delegated to another appropriate officer of the authority, such as the deputy monitoring officer. Similarly, the role of any other officer who is unable to take part in the assessment process should be taken by another officer.

Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities. This is to ensure that an experienced officer is available to deputise for the monitoring officer if they are unable to take part in the assessment process.

## Personal conflicts

Members and officers should take care to avoid any personal conflicts of interest arising when participating in the consideration of a complaint that a member may have breached the Code of Conduct. The provisions of the authority's Code relating to personal and prejudicial interests apply to standards committee members in meetings and hearings.

Anyone who has a prejudicial interest or who is involved with a complaint in any way should not take part in the assessment or review sub-committee. Decisions made in an assessment or review sub-committee should not be influenced by anything outside the papers and advice put before the members in that committee. The members should not discuss complaints with others who are not members of the committee which deals with the assessment or review. Discussions between members should only take place at official meetings.

# other issues to consider

Authorities should have clear guidelines in place on when a member or officer should not take part in the assessment of a complaint because of personal interests. These may include consideration of the following:

- The complaint is likely to affect the well-being or financial position of that member or officer or the well-being or financial position of a friend, family member or person with whom they have a close association.
- The member or officer is directly or indirectly involved in the case in any way.
- A family member, friend or close associate of the member or officer is involved in the case.
- The member or officer has an interest in any matter relating to the case. For example, it concerns a member's failure to declare an interest in a planning application in which the member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.

## Complaints about members of more than one authority

The introduction of the local assessment of complaints may raise an issue relating to what should happen if a complaint is made against an individual who is a member of more than one authority – often known as a dual-hatted member.

In such cases, the member may have failed to comply with more than one authority's Code of Conduct. For example, an individual who is a member of a district council and a police authority may be the subject of complaints that they have breached the Code of both authorities. As such, it would be possible for both the assessment sub-committee of the district council and the assessment sub-committee of the police authority to receive complaints against the member.

Where a complaint is received about a dual-hatted member, the monitoring officer of the authority should check if a similar allegation has been made to the other authority, or authorities, on which the member serves.

Decisions on which standards committee should deal with a particular complaint must then be taken by the standards committees themselves, following discussion with each other. They may take advice as necessary from the Standards Board for England.

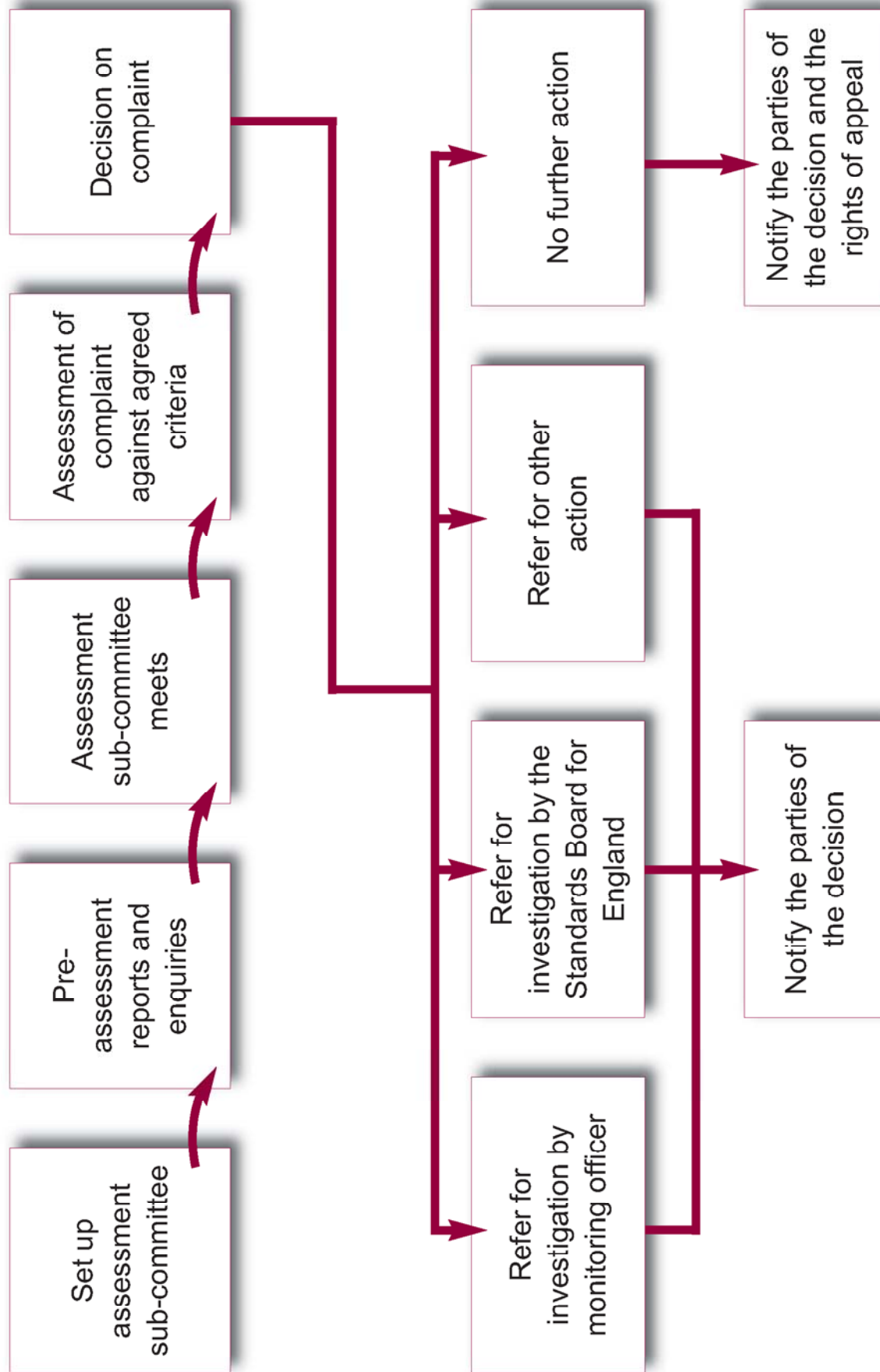
This will allow for a cooperative approach, including sharing knowledge and information about local circumstances, and cooperation in carrying out investigations to ensure resources are used effectively.

Authorities should also consider whether they need to establish a data sharing protocol with other relevant authorities. The government and the Information Commissioner's Office have produced guidance on such protocols. Visit [www.ico.gov.uk](http://www.ico.gov.uk) for further details on the work of the Information Commissioner.

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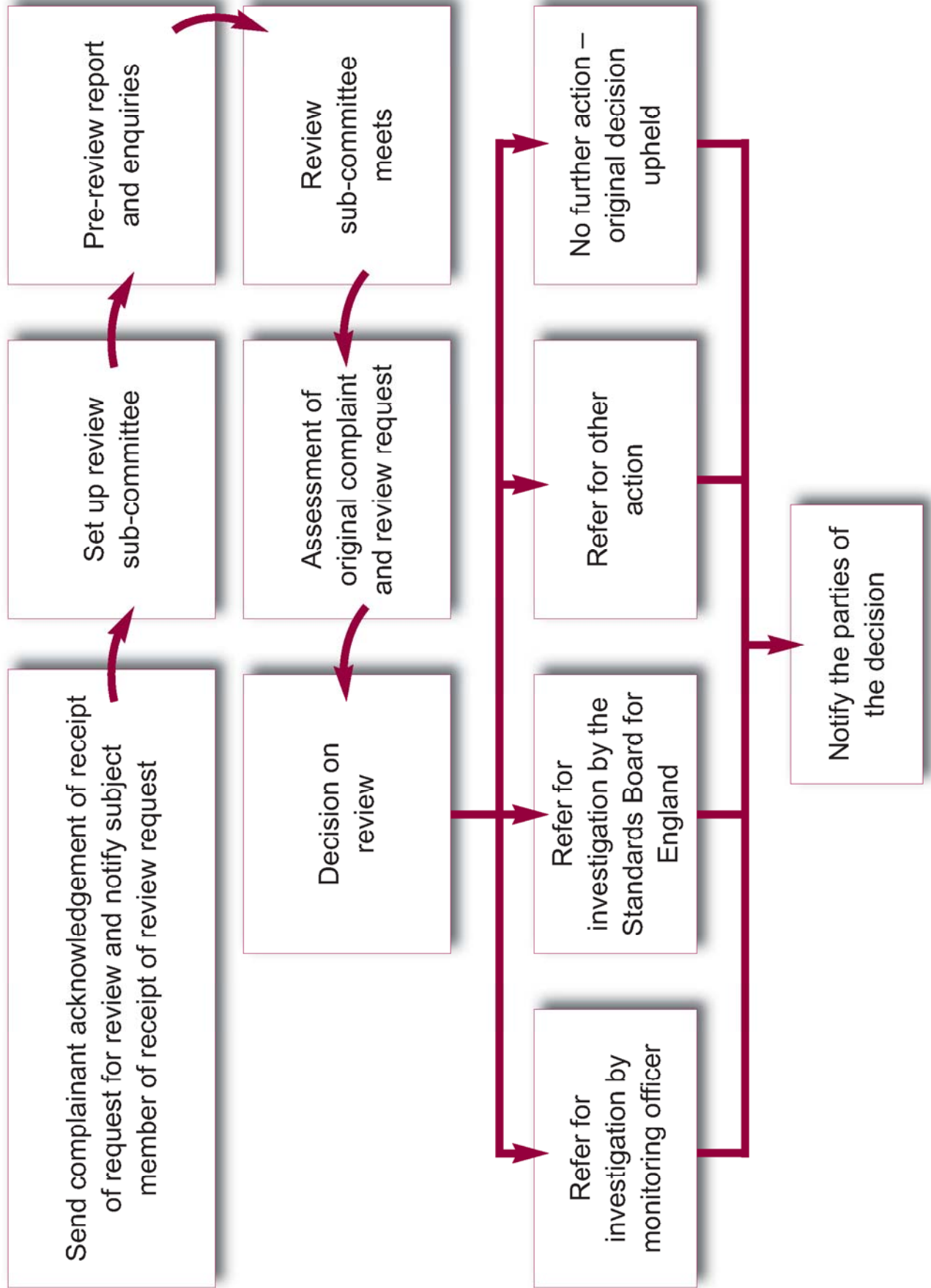


# assessment flowchart



## Note:

- If at any stage (up until decision) the complainant asks to withdraw their complaint, refer to the guidance.
- If confidentiality is requested by the complainant you may need to amend the notification stages of this process. Please refer to the guidance.



LOCAL ASSESSMENT OF STANDARDS COMPLAINTS

ASSESSMENT SUB-COMMITTEE

**To comprise:**

- 1 independent Member (to act as chair)
- 1 elected Member
- 1 parish representative

drawn from the membership of the Standards Committee.

**REMIT**

1. To consider written allegations that an elected or co-opted member of Swindon Borough Council or of any parish within the Borough of Swindon has failed to comply with the relevant Code of Conduct and to do one of the following: -

- (i) refer the allegation to the Monitoring Officer with an instruction that he arrange a formal investigation of the allegation
- (ii) refer the allegation to the Monitoring Officer directing that he arrange training, conciliation or such appropriate alternative steps as permitted by Regulations

(NOTE: the Sub-Committee should consult with the Monitoring Officer before taking this step.)

- (iii) refer the allegation to the Standards Board for England.
- (iv) decide that no action should be taken in respect of allegation or
- (v) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a member of another relevant authority (as defined in section 49 of the Local Government Act 2000) refer the allegation to the Monitoring Officer of that other relevant authority

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

2. The Sub-Committee shall state its reasons for its decision.

**FREQUENCY OF MEETINGS**

As and when necessary to assess written complaints.

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**REVIEW SUB-COMMITTEE**

**To comprise:**

- 1 independent Member (to act as chair)
- 1 elected Member
- 1 parish representative

drawn from a panel of the membership of the Standards Committee PROVIDED THAT no Member shall sit on a Review Sub-Committee if they have participated in an Assessment Sub-Committee to consider the complaint which is subject to review.

**PURPOSE**

The purpose of the Review Sub-Committee is to review, on the request of the complainant, a decision by the Assessment Sub-Committee to take no action in respect of the allegation.

**REMIT**

1. To review the decision of the Assessment Sub-Committee to take no action in respect of a complaint and to do one of the following: -
  - (i) to refer the allegation to the Monitoring Officer with an instruction that he arrange a formal investigation of the complaint
  - (ii) to refer the allegation to the Monitoring Officer directing that he arrange training, conciliation or such appropriate alternative steps as permitted by Regulations.  
  
(NOTE: the Sub-Committee should consult with the Monitoring Officer before taking this step)
  - (iii) refer the allegation to the Standards Board for England
  - (iv) decide that no action should be taken in respect of the allegation; or
  - (v) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000) refer the allegation to the Monitoring Officer of that other relevant authority.

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.

2. The Sub-Committee shall state its reasons for its decision.

**FREQUENCY OF MEETINGS**

As necessary, to enable it to review any decision of the Assessment Sub-Committee to take no action within 3 months of the receipt of the request for such a review from the person who made the allegation.

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**ASSESSMENT CRITERIA****1. BACKGROUND AND CONTEXT****1.1 Irrelevant Complaints**

It is likely that complaints will be received which do not relate to the Code of Conduct for members. Such complaints might include complaints relating to the provision of services by the Council or the manner in which matters have been dealt with by the Council which should properly be dealt with through the Council's Corporate Complaints Procedure. They may be matters relating to other authorities or matters relating to a members private life which do not therefore fall within the remit of the Standards Committee.

Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer who, if appropriate, will refer it to the appropriate avenue for further consideration.

**1.2 Local Resolution**

The Standards Committee is acutely aware that investigations are costly and time consuming. Moreover complaints can often be dealt with more effectively if an early resolution of the matter can be achieved.

The Monitoring Officer may therefore encourage complainants to explore whether the matter can be resolved locally prior to a formal written complaint being made to the Standards Committee.

**2. INITIAL TESTS**

Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that the complaint meets the following tests: -

- (a) Is the complaint about the conduct of a member?

*(The complaint must relate to one or more named elected or co-opted members of the borough or parish councils covered by the Standards Committee i.e. within the Borough of Swindon)*

- (b) Was the named member in office at the time the alleged misconduct took place?

- (c) Was the Code of Conduct in force at the time the alleged misconduct took place?

- (d) If the complaint is proven, would there be a breach of the Code under

which the member was operating at the time of the alleged misconduct?

If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

**3. SUFFICIENCY OF INFORMATION**

The complainant must provide sufficient information to enable the Assessment Sub-Committee to conclude that there is prima facie evidence of a breach of the Code of Conduct. If insufficient information is available, the Assessment Sub-Committee will not normally refer the complaint for investigation or other action.

**4. SERIOUSNESS OF THE COMPLAINT**

The Assessment Sub-Committee will not normally refer a matter for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

**5. LENGTH OF TIME WHICH HAS ELAPSED**

The Assessment Sub-Committee will have regard to the length of time which has elapsed since the events the subject of the complaint occurred. It will not normally investigate or pursue other action where the events took place more than 6 months prior to the complaint being submitted other than in exceptional circumstances (for example, where the conduct relates to a pattern of behaviour which has recently been repeated).

**6. PUBLIC INTEREST**

The Assessment Sub-Committee will determine whether the public interest or any public benefit would be served by referring complaint for investigation or other action. They may consider that the public interest would not be served where a member has died, resigned or is seriously ill. Similarly if a member has offered an apology or other remedial action they may decide that no further action should be taken.

Similarly, if the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.

**7. ANONYMOUS COMPLAINTS**

Anonymous complaints will not normally be entertained unless there is additional documentary evidence to support the complaint.



## **8. MULTIPLE COMPLAINTS**

It is not uncommon that one event may give rise to similar complaints from a number of different complainants. Whenever possible these complaints will be considered at the same meeting of the Assessment Sub-Committee. However each complaint will be separately considered.

## **9. CONFIDENTIALITY**

As a matter of fairness and natural justice, a member should usually be told who has complained about them. There may be occasions where the complainant requests that their identity is withheld. Such a request should only be granted in circumstances that the Assessment Committee consider to be exceptional, for example: -

- (a) the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed
- (b) the complainant is an officer who works closely with the member and they are afraid of the consequences to their employment if their identity is disclosed
- (c) the complainant suffers from a serious health condition which might be adversely affected if their identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence.

## **10. WITHDRAWING COMPLAINTS**

A complainant may ask to withdraw their complaint before the Assessment Sub-Committee has made a decision on it. The Sub-Committee will have to decide whether to grant the request.

For example, the Sub-Committee may consider the following: -

- (a) Does the public interest in taking some action outweigh the complainant's request to withdraw the complaint?
- (b) Could action, such as an investigation, be carried out without the complainant's participation?
- (c) Is there a reason why the complainant has been asked to withdraw the complaint? (For example, have they been pressurised by the member against whom the allegation has been made?)

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## Ethical Framework Update

Standards Committee

Date: 14 July 2008

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

**Wards Affected:** All

### Purpose

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

### Recommendation

- That the Ethical Framework update be noted.
- That the Monitoring Officer and the Head of Internal Audit consult on a review of the Anti-Fraud and Corruption Policy, the Whistleblowing Policy and the Fraud Response Plan, and report back to the next meeting with any revisions.
- That the Committee support the draft proposal for a Standards Conference during 2008/09, subject to any amendment which may be made at the meeting.
- That the Annual Governance Statement and the local Code of Corporate Governance be noted.

## 1. Reasons

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

## 2. Detail

### *Anti-Fraud and Corruption Strategy and Whistleblowing Policy*

- 2.1 The Anti-Fraud and Corruption Strategy (Appendix '1') sets out measures designed to frustrate any attempted fraudulent or corrupt acts and the steps to be taken if such action occurs.
- 2.2 The Council's Whistleblowing Policy (Appendix '2') supports the Strategy and makes it clear that concerns can be raised without the fear of reprisals. It is intended to encourage and enable employees, Members and Governors to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.
- 2.3 The Council's Internal Audit section have also developed a Fraud Response Plan (Appendix '3') and Fraud Awareness Guide (Appendix '4') that will be rolled out to relevant Members and staff starting this financial year.

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

## Ethical Framework Update

Standards Committee

Date: 14 July 2008

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- 2.4 It was initially agreed that these documents be reviewed annually, and subject to any amendments that the Committee may wish to make to the documents, the Monitoring Officer and the Head of Internal Audit will consult on a review of the documents, and report back to the next meeting with any proposed changes so that any revisions can be formally adopted by the Committee.

### *Swindon Standards Conference*

- 2.5 At the last meeting the Committee supported the proposal for a conference to be held focused on 'Standards in Partnership'. Attached at Appendix '5' is a draft proposal for a conference, with the date to be identified for September or November 2008. This has been formulated in consultation with the Director of Partnership, Policy and Communications.
- 2.6 The Committee is asked to comment on the programme suggested which can then be discussed at the next meeting of the Swindon Strategic Partnership Board.

### *Annual Governance Statement*

- 2.7 The Annual Governance Statement (Appendix '6') 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.
- 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 key areas where improvement is required. Paragraph 3(c) of the Statement in particular refers to the work of the Standards Committee
- 2.9 Audit Committee approved the Council's Annual Governance Statement at its meeting on 24<sup>th</sup> June. There are various sources of assurance, including the Standards Committee, that can inform both Corporate Board and Audit Committee on how the governance arrangements and systems of internal control have been operating, and these are set out in Appendix '7'.

### *Local Code of Corporate Governance*

- 2.10 The Council has approved and adopted a local Code of Corporate Governance (Appendix '8'), which is consistent with the principles of the CIPFA/SOLACE Framework for Delivering Good Governance in Local Government.

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# Ethical Framework Update

Standards Committee

Date: 14 July 2008

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- 2.11 Members of Standards Committee are referred in particular to the section in the Code entitled 'Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour (paragraphs 3.6 to 3.8). As part of the Ethical Audit self-assessment to be completed this year under the draft Work Programme, the Standards Committee will consider the Council's compliance with that principle.
- 2.12 The Standards Committee will be invited to comment on the content of the local Code during its review later in the year.

## *Parish Councils*

- 2.13 Mike Compton has been visiting Parish Councils as discussed at a previous meeting of the Standards Committee, to give a brief introduction to the work of the Committee, to discuss with Parishes how they are managing with the implementation of the New Code of Conduct, to discuss any issues or queries that have arisen, and to ask if the Council or Standards Committee can provide additional help or support.
- 2.14 To date, Mr Compton has visited eight Parish Councils within the Swindon area (Blunsdon, Highworth, Stratton St Margaret, Hayden Wick, South Marston, Wroughton, Covingham and Wanborough), and is booked to visit Bishopstone and Chiseldon during July and Castle Eaton and Stanton Fitzwarren during September. This has proved a valuable exercise to enable the Standards Committee to contact the parish councils and discuss their understanding of the ethical framework. Mr Compton will report back on the visits to date.

## *Register of Interests*

- 2.15 All newly elected Members have completed their acceptance of office forms and register of interests form. All re-elected members have signed their acceptance of office form and either completed a new register of interest form or confirmed that there has been no change in their interests.

## *Training*

- 2.16 All newly elected Members have had an induction on the ethical framework either collectively or individually from the Monitoring Officer.
- 2.17 All new members of Planning Committee attended the mandatory training session on decision-making.

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## Ethical Framework Update

Standards Committee

Date: 14 July 2008

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- 2.18 The newly appointed Independent Member of the Standards Committee has received an Induction on the Code of Conduct and the work of the Committee. Similar arrangements are being made with the newly appointed Parish Representative who is an experienced parish councillor and he has already attended a meeting of the Committee to familiarise himself with its work.
- 2.19 A Members Development evening is to take place on 9<sup>th</sup> July 2008. During the evening the Monitoring Officer will be conducting two sessions. One being an update on the Ethical Framework at which the Standards Board for England DVD 'The Code Uncovered' will be shown. The other being a session on Chairing Skills which will include advice on dealing with potential breaches of the Code of Conduct and the Member / Officer Protocol during a meeting.

### *Standards Board Publications*

- 2.20 Attached at Appendices '9' and '10' are the Standards Board Bulletins for April 2008 (Issue 38) and for June 2008 (Issue 39). These summarise the Standards Committee Regulations and the new online local reporting system; give a personal account of the introduction of local assessment by the Monitoring Officer of a shire district council; and introduce the new Chair of the Standards Board.
- 2.21 If any member of the Committee has any queries on any issue raised in these publications, these can be raised at the Committee meeting and prior notice thereof to the Monitoring Officer would be helpful.

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

- 2.22 The next meeting of the Forum has been arranged to take place at the offices of Cherwell District Council, Bodicote, (near Banbury) on Friday 26<sup>th</sup> September at 11 am. Independent Members are invited to say whether they are intending to attend.

### *Seventh Annual Assembly of Standards Committees – 13<sup>th</sup> -14<sup>th</sup> October 2008*

- 2.23 The Seventh Annual Assembly of Standards Committees will be held on 13<sup>th</sup> -14<sup>th</sup> October 2008 in Birmingham. Trevor Davies (Vice-Chair) and Stephen Taylor (Monitoring Officer) and will be attending on behalf of the Committee. They will report back on the various sessions held, and lessons to be learned.

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# Ethical Framework Update

Standards Committee

Date: 14 July 2008

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## Alternative Options

- The Committee could decide not to review the Policies referred to, and not receive the update.

## Risk Management

### *Financial and Procurement Implications*

- There are no direct financial implications

### *Legal / Human Rights Implications*

- There are no direct legal or human rights implications

### *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
- Head of Internal Audit
- Director of Partnership, Policy and Communications

## Background Papers and Appendices

- Appendix 1 – Anti-Fraud and Corruption Strategy July 2007
- Appendix 2 – Whistleblowing Policy July 2007
- Appendix 3 – SBC Fraud Response July 2007
- Appendix 4 – SBC Fraud Guide for Managers July 2007
- Appendix 5 – Swindon Standards Conference Draft Proposal
- Appendix 6 – Swindon Borough Council Annual Governance Statement.
- Appendix 7 – Annual Governance Statement Framework (Flowchart).
- Appendix 8 – Local Code of Corporate Governance
- Appendix 9 – Standards Board Bulletin for April 2008 (Issue 38)
- Appendix 10 – Standards Board Bulletin for June 2008 (Issue 39)

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# **SWINDON BOROUGH COUNCIL**

## **ANTI-FRAUD AND CORRUPTION**

### **STRATEGY**

**Reviewed: JULY 2007**



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Appendix 1: Whistleblowing Policy

Appendix 2: Fraud Response Plan

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

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

## 2. What are Fraud and Corruption?

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

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

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

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

### 3. Culture

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

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

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

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

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

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

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

- ***Endangering of an individuals health and safety***
- ***Damage to the environment***
- ***Deliberate concealment of any of the above***

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

#### **4. Key Principles**

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

#### **5. The role of Elected Members**

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

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

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

## **6. The role of employees**

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

## **7. The role of Managers**

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

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

## **8. Conflicts of Interest**

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

## **9. The role of Internal Audit**

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

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

## **10. The role of the Benefit Investigation Team**

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

## **11. The role of External Audit**

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



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

## **12. Measures to minimise the risk of fraud**

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

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

### **13. How the Council aims to deter Fraud**

#### **13.1 Housing and Council Tax Benefit Administration**

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

#### **13.2 Prosecution**

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

#### **13.3 Disciplinary Action**

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

#### **13.4 Publicity**

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

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

#### **14. Detection and Investigation**

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

## **15. Awareness and Training**

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

## **16. Monitoring**

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

## **17. Conclusion**

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

# **SWINDON BOROUGH COUNCIL**

## **DISCLOSURE (‘WHISTLEBLOWING’) POLICY**

**Reviewed: JANUARY 2007**



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## **1. Introduction**

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

## **2. Aims and Scope of the Policy**

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

2.3 That concern may be about something that:

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

For example (this list is not exhaustive):

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

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

### **3. Safeguards**

#### ***Harassment or Victimisation***

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

#### ***Confidentiality***

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



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

### ***Anonymous Allegations***

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

### ***Untrue Allegations***

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

## **4. How to raise a concern**

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

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

## **5. How the Council will respond**

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

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

## **6. How the matter can be taken further**

- 6.1 This policy is intended to provide staff with an avenue to raise concerns **within** the Council. The Council hopes staff will be satisfied. If they are not, and feel that it is right to take the matter outside the Council, the following are possible contact points:
- Local Council member (if staff member lives in the area of the Council)
  - Chair or any member of the Standards Committee
  - The External Auditor (Audit Commission: tel. no. 0117 923 6757)
  - Relevant professional bodies or regulatory organisations
  - Solicitor
  - The Police
  - An independent person or organisation nominated for the purpose by the Council

- Public Concern at Work (tel. no. 020 7404 6609). If staff do take this matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. Staff should check with the contact point about that.

## **7. The Monitoring Officer**

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

## **8. The Law**

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

# **SWINDON BOROUGH COUNCIL**

## **FRAUD RESPONSE PLAN**



**PREPARED BY: Nick Hobbs**  
**Head of Internal Audit**

**DATE: July 2007**

**VERSION: 2.1**

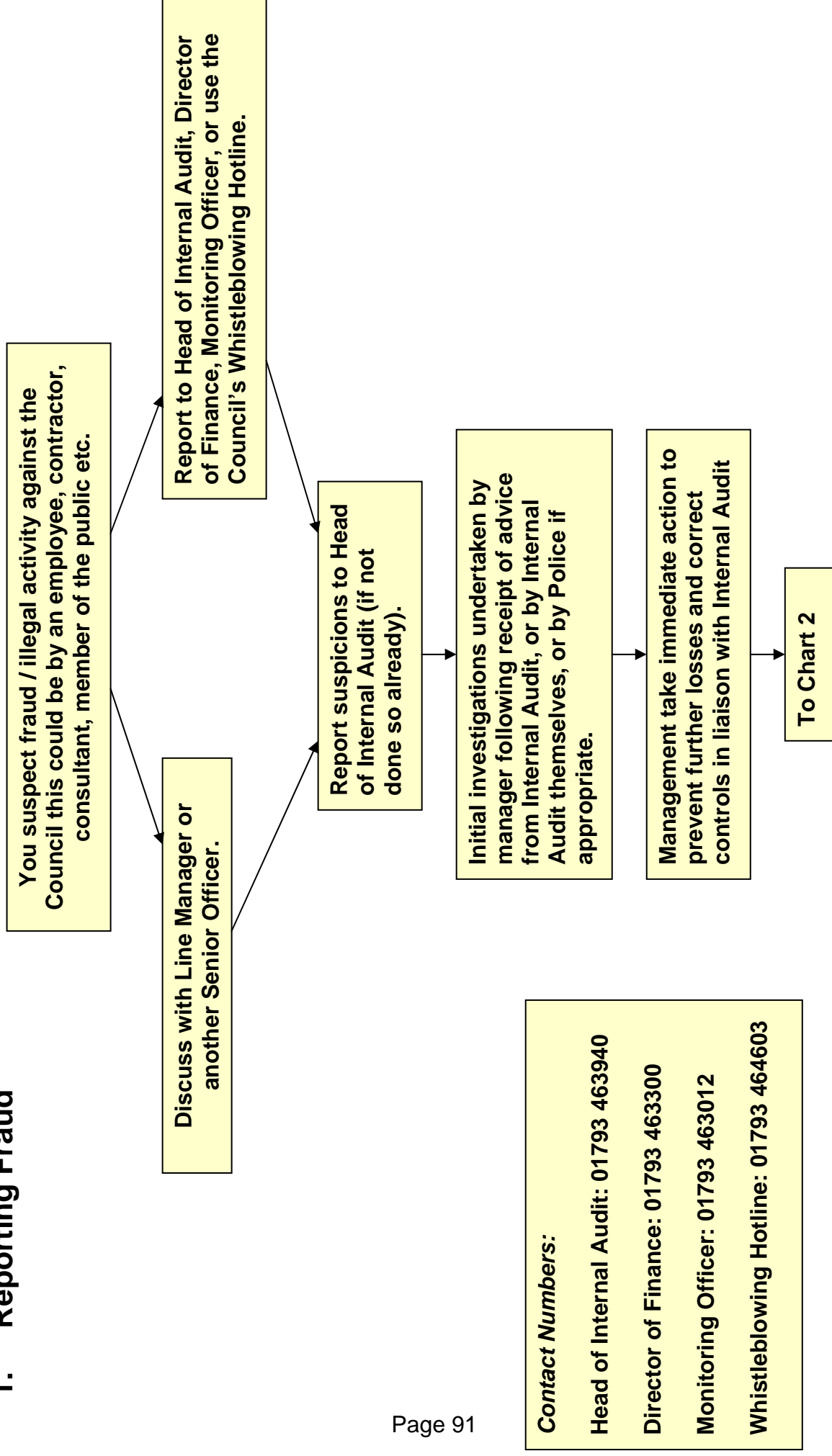
## 1. Introduction

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

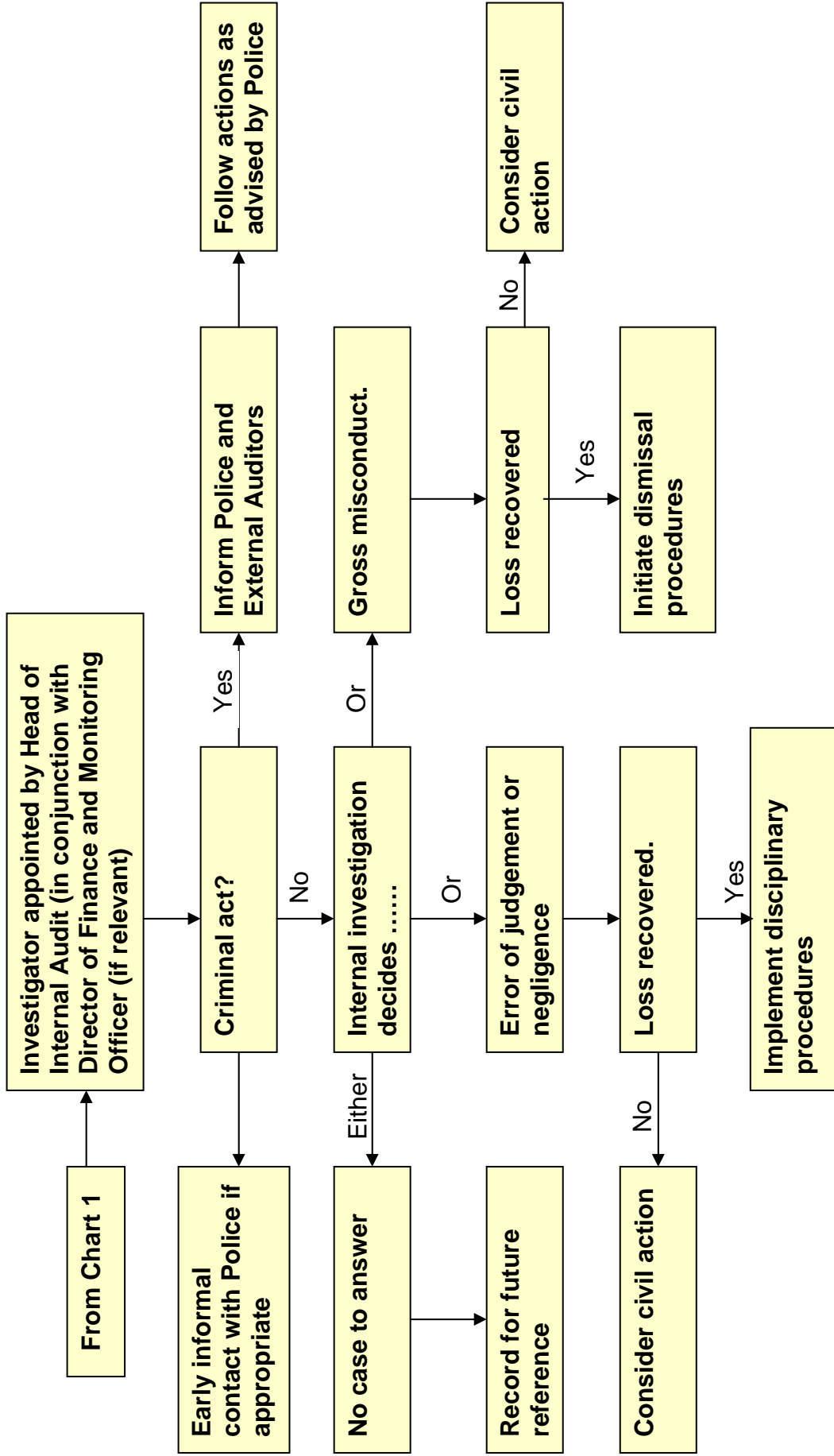
## 2. Scope of Response Plan

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

## 1. Reporting Fraud



## 2. Conducting the Investigation





### 3. Reporting Suspicions

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

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

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

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

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

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

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

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

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

### 4. Investigation

#### ***Managers & Supervisors:***

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

The Manager should:

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

***Internal Audit:***

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

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

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

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

## **5. Establishing and Securing Evidence**

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

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

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

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

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

## **6. Police Referral Procedures**

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

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

## **7. Prevention of Further Losses**

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

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

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

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

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

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

## **8. Recovery of Losses**

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

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

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

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

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

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

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

## 10. Roles and Responsibilities (who does what)

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

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

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

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

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

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

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

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

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

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# Swindon Borough Council

Swindon Internal Audit Services

## **FRAUD AWARENESS**

### **A GUIDE FOR MANAGERS**

July 2007







## 1. Why you should read this?

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

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

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

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

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

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

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

## 2. What is Fraud?

### **Fraud**

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

### **Theft**

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

### False Accounting

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

### Bribery and Corruption

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

### Deception

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

### Collusion

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

## 3. How Fraud Occurs

Four basic elements are present when fraud occurs:

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

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

## 4. Examples of where behaviour may indicate Fraud

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

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

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

## 5. Indicators of Potential Fraud in systems

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

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

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

## 6. Fraud and Corruption

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

### DO:

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

**DON'T:**

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

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

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

## **7. Investigating suspected fraud**

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

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

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

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

## 8. Fraud & Deception legislation

Relevant legislation includes:

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

### Internal Audit Contact details:

#### **Nick Hobbs**

Head of Internal Audit

Tel: (01793) 463940

E-mail: <mailto:nhobbs@swindon.gov.uk>

#### **Nikki Soave**

Principal Auditor

Tel: (01793) 463947

E-mail: <mailto:nsoave@swindon.gov.uk>

### Other contact numbers:

#### **The Council's Confidential Whistleblowing Line**

Tel: (01793) 464603

#### **Public Concern at Work**

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

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

## DRAFT PROPOSAL

### Swindon Standards Conference / Workshop

#### 'STANDARDS IN PARTNERSHIP'

<b>Purpose:</b>	<p>For the Council and its partners to develop a common understanding of the ethical framework applied to our activities and to carry out a base-lining exercise on how respective ethical standards compare.</p> <p>To gain a common appreciation of how standards of performance and efficiency rely upon standards of behaviour and conduct.</p>
<b>Background</b>	<p>With the growth in partnership and joint working and with a growth in commissioned services, it is increasingly important for organisations to understand and be able to work in line with each other's legal requirements in terms of ethical behaviour, codes of conduct and governance.</p> <p>This has been recognised by the Standards Board for England and one of the sessions at their Seventh Annual Assembly in October 2008 will examine the results from the Standards Board and the University of Manchester assessing the accountability gap in partnerships and joint working.</p> <p>Swindon is on the front line of joint working, include the integration of Council and the Primary Care Trust, with a successful Swindon Strategic Partnership Board (SSPB), the strategic partnership with Capita, and with commissioning of services with other public agencies, businesses and the voluntary sector.</p> <p>This is a key moment to bring partners round the table, to begin to lead the work to develop a shared understanding of probity issues for all the respective organisations, with a long-term view to collaborate on Standards issues within the Borough, to ensure that standards of performance are supported by strong governance and probity, and to be confident that partnerships have clear governance accountabilities, including effective and equitable financial arrangements.</p>
<b>Date:</b>	Date to be identified in September / November 2008
<b>Place:</b>	To be determined based on numbers expected to attend
<b>Invitations to attend to:</b>	<ul style="list-style-type: none"><li>- Swindon Standards Committee</li><li>- Swindon Strategic Partnership Board - Up to 2 delegates from each organisation.</li><li>- Swindon Borough Councillors</li><li>- Parish Councils – Up to 2 delegates from each organisation.</li></ul>

	<ul style="list-style-type: none"> <li>- Swindon Compact – Up to 2 delegates from each organisation.</li> <li>- Corporate Board / Directors and other relevant Officers</li> <li>- Chairs of School Heads Associations in Swindon</li> <li>- Capita – Swindon Partnership Officers</li> <li>- Representative from Thamesdown Transport and Stagecoach – Up to 2 delegates</li> <li>- Representative from New Swindon Company – Up to 2 delegates</li> <li>- Other appropriate delegates (to be identified by the Swindon Standards Committee or the Swindon Strategic Partnership Board)</li> </ul>
<b>Programme for the Session</b>	<ul style="list-style-type: none"> <li>- Speaker – Standards Board Senior Representative / or other speaker prominent in this field mirroring the Session provided at the Standards Assembly – on assessing the accountability gap in partnerships and joint working.</li> <li>- Presentation on Best Practice from another Council (if one can be identified) which has an example of shared standards processes or good partnership working in the area of probity.</li> <li>- Pop-Up Session - Opportunity for 5 or 6 of the partners representatives to make a few brief points on the standards processes governing their organisation (ie could include Council / PCT / Police / Fire / Swindon Compact), to set the scene for the following workshop sessions.</li> <li>- Workshop sessions – consideration of 1 or 2 steps to improving collaboration and understand of each others ways of working. To be developed into an action plan after the event.</li> </ul>
<b>Outcomes</b>	<ul style="list-style-type: none"> <li>- Increased knowledge of the probity issues affecting organisations working in partnership.</li> <li>- Confidence that partnerships have clear governance accountabilities, including effective and equitable financial arrangements</li> <li>- A matrix of the legislative and local imperatives that govern organisations and ideas arising from presentations and workshop sessions on how to improve standards in partnership.</li> </ul>

June 2008



# SWINDON BOROUGH COUNCIL

## ANNUAL GOVERNANCE STATEMENT: 2007/08

### 1. Scope of responsibility

Swindon Borough Council 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 Council 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 a regard to a combination of economy, efficiency and effectiveness.

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

The Council has approved and adopted a local code of corporate governance, which is consistent with the principles of the CIPFA/SOLACE *Framework for Delivering Good Governance in Local Government*. This statement explains how the Council 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.

### 2. 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 the 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 Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised, and to manage them efficiently, effectively and economically.

The following section of the statement summarises Swindon Borough Council's governance framework that has been in place for the year ended 31<sup>st</sup> March 2008 and up to the date of approval of this Statement and the Statement of Accounts. The framework described reflects the arrangements in place to meet the six core principles of effective governance.

### 3. The Council's framework for ensuring compliance with the core principles of effective governance

#### (a) *The Council's purpose, outcomes for the community and creating and implementing a vision for the local area.*

The Council recently published a new Community Vision after nine months of extensive consultation. This sets out an ambitious Vision for place that is supported by our Corporate Plan. The supporting strategies and objectives are

summarised in the Council's Annual Operating Plan (AOP). The Community Vision is shared by our partners and identification of supporting partnership outcomes is contained within our Local Area Agreement (LAA) monitored and monitored via the Local Partnership Board (LPB) and reviewed twice yearly by the wider Swindon Strategic partnership. Many of the Council's services are informed by local consultation and are delivered to a high standard that make the best use of resources and are value for money by:

- Benchmarking the cost and performance of our services. SBC took a national lead in setting up a Unitary Benchmarking club in partnership with PWC.
- Working increasingly with our partners, delivering services that meet the needs of the local community, and put in place processes to ensure that they operate effectively in practice.
- Through the use of data, determining local needs and targeting resources accordingly.
- Developing effective relationships and partnerships with
  - other public sector agencies, including integration with the coterminous PCT voluntary and community organisations
  - the private sector through our Swindon Economic Partnership (SSEP) through our incremental strategic partnership with Capita.
- Responding positively to the findings and recommendations of external auditors and statutory inspectors and putting in place arrangements for the implementation of agreed actions.
- Carrying out value for money benchmarking of our costs and performance against our family groupings to ensure best use is made of the resources available to the Council.
- Delivering specific projects within an effective, corporate programme management framework, as appropriate.

**(b) *Members and Officers working together to achieve a common purpose with clearly defined functions and roles.***

The Council has ensured that the necessary roles and responsibilities for its governance are identified and allocated so that it is clear who is accountable for decisions that are made. The Council has done this by:

- Appointing a Leader of the Council, and executive members (cabinet members), with defined executive responsibilities
- Agreeing a scheme of delegated executive responsibilities to directors, and protocols that make clear the respective roles of members and officers and ensure effective communication between them.
- Annually appointing committees to discharge the Council's regulatory responsibilities
- Annually appointing committees to discharge the Council's overview and scrutiny responsibilities
- Setting clear role definitions for chairs of committees and councillors in their different roles

- Undertaking an annual review of the operation of the Council's constitution
- Making the Chief Executive (the Head of Paid Service) responsible and accountable to the Council for all aspects of operational management.
- Making a senior officer (the Monitoring Officer) responsible to the authority for ensuring the lawfulness and fairness of decision-making, and that agreed procedures are followed and that all applicable statutes and regulations are complied with.
- Making a senior officer (the Section 151 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.
- Ensuring significant partnerships and contracts with other public bodies, voluntary and community organisations, and the private sector have clear governance accountabilities, including effective and equitable financial arrangements
- Having in place effective and comprehensive arrangements for the scrutiny of services

**(c) *Promoting our values and upholding high standards of Conduct and behaviour.***

The Council promotes and maintains high standards of ethical conduct of members and officers through the work of its Standards Committee.

The Council fosters a culture of behaviour based on shared values, ethical principles and good conduct.

The Council has done this by establishing and keeping under review:

- The Council's Constitution
- A Members' Code of Conduct
- An Officer's Code of Conduct
- A protocol governing Member/Officer Relations
- A Members' Planning Code of Good Practice
- Monitoring Officer Protocol
- Media Guidelines
- Contract Standing Orders and Financial Regulations
- The Council recently committed itself to "In Touch" a new set of values and behaviours (determined through extensive consultation with staff and Members) that will set and embed the organisational tone and culture moving forward. Commitment to this will be achieved by embedding it in the recruitment, appraisal and development processes.

The Council takes fraud and corruption very seriously and has the following policies that aim to prevent or deal with such occurrences:

- An anti-fraud and corruption strategy
- A Whistleblowing policy

- A Fraud Response Plan

Conduct of Members is monitored by a Standards Committee, which also investigates allegations of misconduct by Members.

**(d) *Taking informed and transparent decisions that are subject to effective scrutiny and managing risk.***

The Council has ensured that the decision-making process includes a rigorous risk assessment including:

- Financial, legal and staffing implications
- Sustainability implications
- Health Impact and Promotion implications
- Value for Money;
- Implications for Partnerships
- Implications for Community Safety
- Impact on Rural Communities.
- Diversity and racial impact assessment
- Risks, mitigations and opportunities

The Council has been rigorous and transparent about how decisions are taken and recorded. The Council has:

- Ensured the Cabinet make decisions in an open and transparent way and that information relating to those decisions is made available to the public, unless statutory rules allow otherwise
- Ensured that all decisions of regulatory committees of the Council are made in public and that information relating to those decisions is made available to the public, unless statutory rules allow otherwise
- Ensured that legal and financial implications are recognised in all reports on which decisions are based
- Recorded all decisions that are made by committees and key decisions made by officers (where applicable).
- Rules and procedures, which govern how decisions are made.
- Developed and maintained an effective overview and scrutiny function which encourages constructive challenge
- Maintain an effective Standards Committee and Audit Committee

The Council has continued to develop its risk management strategy to enable the Council to manage and control risks in order to maximise the quality of its service provision and uphold its reputation, making a powerful contribution to continuous service improvement and the achievement of best value.

The Council has ensured that the risk management system:

- Formally identifies and manages risks
- Involves elected Members in the risk management process

- Includes the undertaking of a risk assessment of every key or strategic decision
- Maps risks to financial and other key internal controls
- Reflects business continuity planning; and
- Reviews and, if necessary, updates its risk management processes at least annually.

**(e) *Developing the capacity and capability of Members and officers to be effective.***

The Council has ensured that those charged with the governance of the Council have the skills, knowledge and experience they need to perform well. The Council has done this by:

- Maintaining member training and development through the Member Development Steering Group
- Developing leadership skills and capacity across the Council
- Developing our approach to workforce planning
- Achieving Investor in People accreditation across all directorates
- Encouraging quality mark accreditation
- Maintaining and developing our personal development and performance review systems
- Cascading regular information to Members and staff by paper and electronic means, having regard to diversity issues

**(f) *Engaging with local people and other stakeholders to ensure robust public accountability.***

The Council is committed to increasing public involvement in decision-making and devolving power to individuals and local organisations. We have sought and responded to the views of stakeholders and the community. The Council has done this by:

- Forming and maintaining relationships with the leaders of other organisations
- Ensuring openness and accessibility to citizens, service users and staff, including partner organisations
- Implementing the Corporate Consultation Strategy and utilising an appropriate range of consultation methods
- Making use of local forums at ward, parish and neighbourhood level to maintain communication with all the Borough's communities and other stakeholders
- Encouraging and supporting the public in submitting requests for Scrutiny
- Maintaining and reviewing an effective complaints procedure
- The Council has also committed itself and its partners to a transformational approach to locality based delivery and community engagement through its new Neighbourhood Management Strategy

#### **4. Review of effectiveness**

Swindon Borough Council annually reviews the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by 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.

Directors have completed a detailed questionnaire reviewing the control environment within their directorate and the results of the questionnaire have been used to inform our assessment of significant control issues for the Council.

The following process has been applied in maintaining and reviewing the effectiveness of the system of internal control. Both in year and year-end reviews processes have taken place.

In year review mechanisms include:

- The Executive is responsible for considering overall financial and performance management and receives comprehensive reports on a regular basis. It also receives reports relating to risk management and monitors the corporate risk register, as well as being responsible for key decisions and for initiating corrective action in relation to risk and internal control issues.
- The terms of reference for the Audit Committee reflect best practice, CIPFA guidance and CPA requirements. The Committee is a full committee of the Council emphasising the commitment to ensuring that there are high standards of internal control within the Council. The Committee is responsible for reviewing the financial performance, risk management and both Internal and External Audit performance and their findings and recommendations.
- Internal Audit is an independent and objective assurance service to the management of the Council who complete a programme of reviews throughout the year to provide an opinion on the internal control environment in the areas examined. Their reviews include examination of the main financial systems, enabling them to provide the Section 151 Officer with an overall opinion on the main financial controls in place as well as risk management, internal control and governance arrangements across the authority. In addition the Section undertakes fraud investigation and proactive fraud detection work. Internal Audit report bimonthly to Audit Committee summarising audits issued since the previous meeting. Audit Committee has called in relevant Directors to update them on the progress in implementing agreed audit recommendations. The Audit Committee also reviews the effectiveness of the Council's system of internal audit.
- The External Auditor / Audit Commission's Annual Audit and Inspection letter is considered by both Cabinet and the Audit Committee. The report stated that the Council continues to make good progress. Monitoring of progress towards implementing recommendations takes place.
- The External Auditors completed their CPA Use of Resources assessment during the year and awarded the Council a score of three overall. The Council's arrangements regarding probity and propriety scored four with the overall internal control arrangements scoring a three.

- A Corporate Governance Working Group, consisting of both Members and officers, including the Monitoring Officer, reviews the effectiveness of the Council's corporate governance arrangements by reference to the CIPFA/SOLACE corporate governance standards and other best practice. The Group has streamlined the Council's decision-making process ensuring that agreed decisions could be implemented promptly.
- The Council has also adopted a Local Code of Corporate Governance against which Internal Audit assessed the Council's compliance.
- Risk Management – the Corporate Risk Management Group provide guidance and feedback to Group Directors and management teams.
- Performance management is carried out through the CPAR and LPAR process and through the use of the Council's performance management system COMPASS. LAA Outcomes are monitored via the LPB.

A year-end review of governance arrangements and the control environment has also been completed which included:

- Obtaining assurances from all Group Directors and Directors that key elements of the control framework were in place during the year in their departments. They were also asked to identify areas where control weaknesses had resulted in a significant issue arising for the department.
- Validation by a Working Group including the Section 151 Officer and the Monitoring Officer of these assurances to other relevant sources of information.
- Reviewing the Head of Internal Audit's annual audit report presented to Audit Committee.
- Obtaining specific assurances from Directors with regard to the governance arrangements in place for key partnerships.

Corporate Board and the Audit Committee have advised us on the implications of the result of the review of the effectiveness of the governance framework and a plan to address weaknesses and ensure continuous improvement of the systems is in place.

## 5. Governance: Key Areas of Focus

The review process has highlighted a number of significant areas for enhanced focus regarding the governance and internal control environment and these are described briefly below. For each one, action plans have been determined by a responsible officer and are under implementation or are in the process of being prepared and a summary of the key elements of these are included below:

- **Contracting of works** – fundamental weaknesses in the process of contacting out works were identified by Internal Audit. SBC management have taken the audit findings seriously and the Directors of Law and Democratic Services, Finance, Procurement, Housing and the Managing Director of Swindon Commercial Services committed to an action plan with Internal Audit. The report was also taken to Audit Committee where senior managers were present to explain how and when the audit recommendations would be implemented in order to ensure compliance with due process and that the level of risk to the Council would be fully mitigated. The need for improvement regarding the approved contractor list; procurement process; contract documentation and contract awards was all agreed. Additional training has been given to relevant

staff and assurance has been given that revised procedures are in place, a revised contractor list has been created, a contract checklist introduced and a revised authorisation procedure implemented.

Issues relating to contracted provision of adult care were also highlighted. Once the facts had been established, Corporate Procurement worked together with Adult Social Services to regularise the position by formal reference to the requirements of the Gateway Review Process and the need for Member Scrutiny of all major contract awards. In addition Corporate Procurement is in regular dialogue with Adult Social Services to assist them in developing effective supply market management processes and techniques, and to formally incorporate the Gateway Review Process into all critical spend decisions.

- **Project Management** – The Council a large Capital programme that reflects its transformational ambition for place.. To further enhance value for money and efficiency Corporate Board approved the creation of a corporate Project Management Office (PMO) that will report to the Group Director, Business Transformation and will receive its strategic direction from a Steering Group comprising Directors from across the Council. The PMO has been commissioned and Corporate Board made an investment decision on the basis that the PMO plays a major role in enhancing the organisation's delivery of successful projects and benefits realisation. All issues raised in the recent internal audit of project management will be addressed and the MPO will create the environment for the good governance of project management. In particular:
  - Enhanced commissioning of projects will give strategic context for all projects and give clarity over desired outcomes and commit appropriate resources.
  - Group Directors/ Directors as Project Sponsors are an effective link between Corporate Board and the Project.
  - Support to service Project Managers from the PMO will ensure project teams are capable of delivering objectives because:
    - They have the skills and experience.
    - Resources are available.
    - Effective tools and processes are in place.
  - Reliable and timely information supports the decision-making processes.

The PMO infrastructure will be in place by the 31st of August 2008 and will be fully functional (delivering all services to an agreed standard) by the 30th of April 2009.

- **Housing Benefits (Performance issues regarding the quality of claims assessment)** – significant improvements have been made in the last three years within the Benefits service but the quality of claims assessment remains an area for additional focus. The Benefits Service Improvement Plan for 2008/09 agreed with Capita, the service provider identifies 'Improve Accuracy levels' as a key target area for improvement. Actions to be taken by Capita in 2008/09 focus heavily on staff training and procedures:
  - Identify and implement all training requirements
  - Confirm work procedures are correct
  - Capita checkers to target individuals with highest error rates

Activity undertaken by the Client in 2008/09 includes:



- Identifying the specific areas of persistent error e.g. late notification dates
- Issuing guidance to improve processes
- Holding operational meetings every 3 weeks with the Teams in Mendip and Swindon – face to face or teleconference
- Improving the feedback on error notification sheets and detailing the specific regulations, if appropriate
- Making themselves available to Capita staff to clarify issues

In addition, the contractual Benefits Key Performance Indicator for quality has been strengthened. It has been made a monthly measure rather than quarterly and, by changing the definition from the statutory 128 DWP return to the Client 10% check for errors classed as 'financial', it will measure the accuracy of current work. It will also carry a heavier financial penalty for the provider now that it is a monthly KPI measure.

- **Recruitment of staff** – Swindon is like most authorities across the country in that it is experiencing recruitment challenges in some key professional groups. We are addressing this through our people strategy - A Great Place to Work, which has been fully endorsed by the Cabinet. The administration has also pledged to the local community that they will be seen as an employer of choice (Promise 14).

Good progress is being made here with Council wide IIP accreditation and an increase in staff satisfaction measured via our annual staff survey. Examples of initiatives to target recruitment and retention issues under A Great Place to Work include: Launch of a new values and behaviours set ("In Touch") that defines and will embed strong organisational values and behaviours across the whole organisation; the deployment of robust workforce planning in order to identify short, medium and long term staffing needs; positive action initiatives to ensure the full participation of the local community in active employment; grow your own schemes such as apprenticeships and traineeships; the Swindon School Leadership Development Strategy that offers a creative and effective programme of professional development opportunities for existing and potential school leaders, growing future leaders through succession planning and attracting high potential staff to Swindon to pursue their careers; Practice Leaders - a development programme to exploit untapped talent as an alternative to utilising consultants and contractors; career progression salary schemes to support professional as well as managerial careers; a flexible staff benefits package to align with partner agencies. In common with other authorities we recognise that single status will have an impact on recruitment but to what extent is unknown at this stage.

- **Sickness absence** – The Council has pledged to reduce sickness absence to a level of 7.5 days per FTE by 2010. The Council has made significant progress to date but this is still a challenging target, and is being pursued through the following initiatives: robust policy supported by mandatory manager development; clear target setting and performance reporting; a focus on holistic health and well-being - with health promotion events such as Well Woman and Well Man days; an extensive employee assistance programme for staff, members and their families; partnership working with local trades unions; sickness clinics with managers to focus on areas of poor absence performance;

dedicated attendance officers to help drive performance improvement through effective case management.

- **PCT: Health Integration** – The Council and the Primary Care Trust have committed themselves to an innovative approach to integrating services in order to provide better quality services and achieve greater efficiency. A formal programme structure has been implemented together with a series of senior level joint appointments that have already lead to significant efficiency savings and improved outcomes. A Project Implementation Document (PID) has been produced incorporating a programme risk assessment. A Joint Director of Integration took up post in November 2007 to oversee the development and delivery of the programme. Governance arrangements have been reviewed in the year. The Integration Programme Board is now focused on strategic alignment with membership from Corporate Board and PCT Directors; a Steering Group and 7 work-streams have been established to support delivery of the operational aspects of the programme. A Joint Advisory Group has also been established, bringing together Lead Cabinet Members and PCT Non Executive Directors, to oversee future direction, alignment and governance issues for the organisations. The Integration Programme Board will develop and review a joint risk register for the Integration programme

Section 256 and 75 agreements have been developed to cover the financial, governance and legal arrangements to ensure joint working can be implemented effectively. Each Section 75 Agreement has an associated risk register. Revised Joint Commissioning Board arrangements have been agreed for Children and Adults. The JCBs will review the Section 75 risk registers on a regular basis.

- **Business Continuity** – During 2007/2008 an experienced Business Continuity Manager was appointed, a Corporate Business Continuity Team formed, with Directorate Representatives and Business Continuity co-ordinators in Directorates. Corporate and Directorate Plan Styles developed, populated and tested. A training, exercising, awareness and updating programme has been developed for 2008/2009 and Team Business Continuity Plans will continue to be enhanced.
- **IT Security** – The project to migrate systems is progressing well and will be complete by August 2008. A number of key systems have already been transitioned to the Data Centre facility. In addition access controls to the existing Civic Campus Server Room have been strengthened to reduce the risk to servers before they are transferred.

## 6. Certification

To the best of our knowledge, the governance arrangements, as defined above, have been effectively operating during the year although we recognise the areas for additional focus identified in section 5. We are satisfied that these enhancements 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:

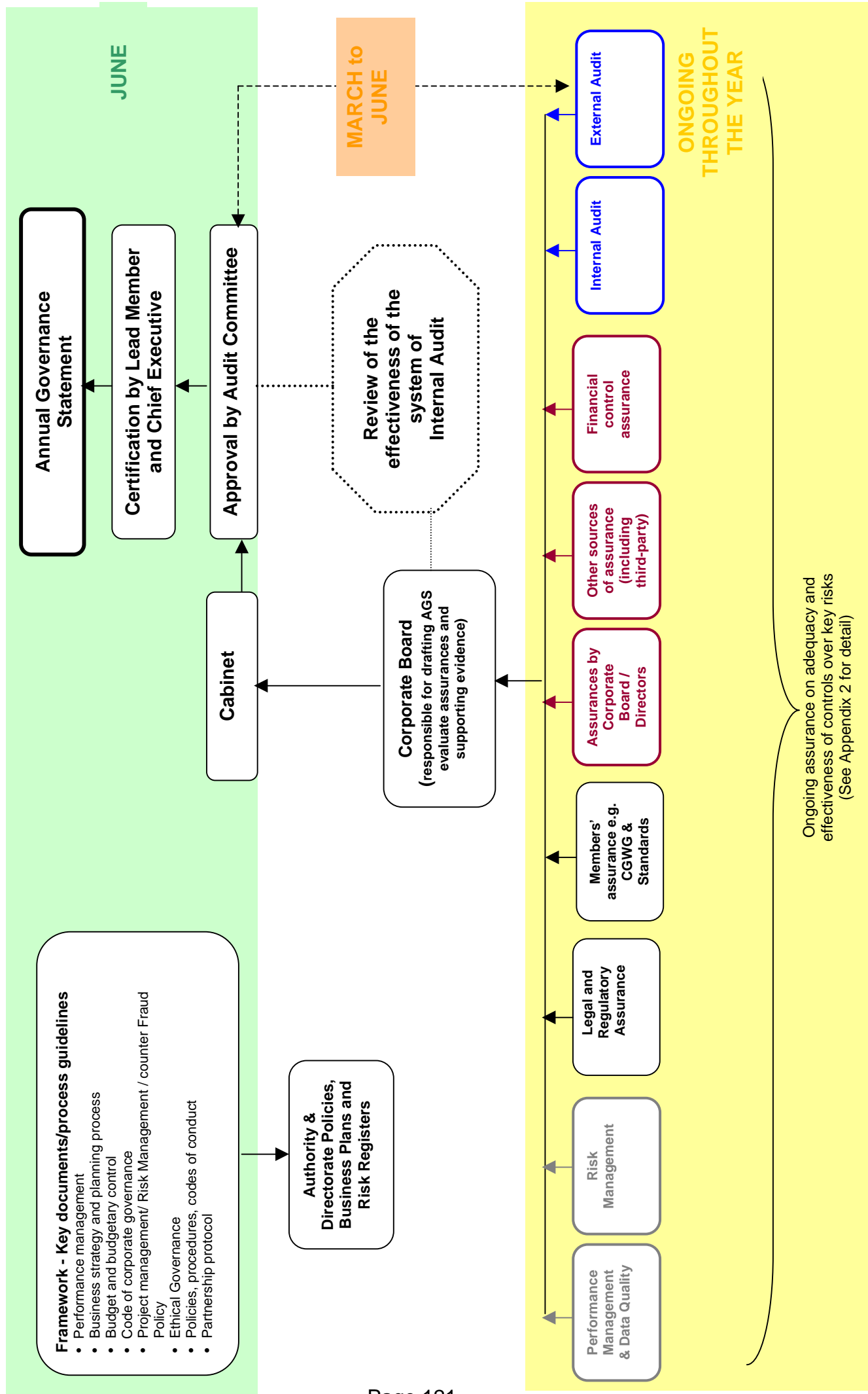
Signed:

Councillor Roderick Bluh  
Leader of the Council

Gavin Jones  
Chief Executive

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# ANNUAL GOVERNANCE STATEMENT FRAMEWORK (FLOWCHART)



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# **Swindon Borough Council's Local Code of Corporate Governance**

## **1. WHAT IS CORPORATE GOVERNANCE?**

- 1.1 The Council has a key role in governing and leading the communities within the Borough of Swindon. Effective local government relies on public confidence in elected councillors and officials. Effective systems of corporate governance underpin the credibility and confidence in public services.
- 1.2 Corporate governance is a phrase used to describe how organisations direct and control what they do. For local authorities this also includes how a council relates to the communities that it serves. Good corporate governance requires local authorities to carry out their functions in a way that demonstrates accountability, transparency, effectiveness, integrity and inclusion.
- 1.3 Swindon Borough Council is committed to being at the forefront of those local authorities that are able to demonstrate that they have the necessary corporate governance to excel in the public sector.
- 1.4 This Code is a public statement that sets out the way in which the Council will meet that commitment.

## **2. WHY DO WE NEED A LOCAL CODE?**

- 2.1 Corporate governance is important because it is crucial to:
  - Providing high-quality public services. Nationally governance weaknesses have led to service failures and critical situations. High-performing organisations, on the other hand, have effective governance arrangements. This is an important area in the Audit Commission's Corporate Assessment.
  - Raising public trust. The public's trust is increased when the quality of services that they and their families experience is high, and when organisations are perceived to be open and honest in communicating their performance, and in learning from their mistakes.
- 2.2 The Code is based upon the following six Principles:
  - Focusing on the Council's purpose 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 managing risk.

- Developing the capacity and capability of members and officers to be effective.
  - Engaging with local people and other stakeholders to ensure robust public accountability.
- 2.3 This Local Code of Corporate Governance sets out the means by which the Council will meet and demonstrate our commitment to good corporate governance in relation to these six principles.

### **3. THE PRINCIPLES OF CORPORATE GOVERNANCE**

#### **Focusing on the Council's purpose and on outcomes for the community and creating and implementing a vision for the local area**

- 3.1 We are committed to an ambitious strategy of achieving excellence for our residents and their communities. We demonstrate this by publishing:
- Our Corporate Plan and 50 Promises.
  - Our Annual Operating Plan.
- 3.2 We will regularly review the vision for our local communities, as it is set out in these documents, and its implications for the Council's governance arrangements.
- 3.3 We will ensure that this vision is shared with our partners through the Local Area Agreement, the Swindon Strategic Partnership, and the Community Strategy.
- 3.4 The Council will aim to deliver high quality services that make the best use of resources and are value for money. The Council will do this by:
- Delivering services to meet the needs of the local community, and put in place processes to ensure that they operate effectively in practice.
  - Determining local needs and targeting resources according to the Corporate Plan.
  - Developing effective relationships and partnerships with
    - ◊ other public sector agencies, including integration with local NHS bodies.
    - ◊ voluntary and community organisations.
    - ◊ the private sector, including our incremental strategic partnership with Capita.
  - Responding positively to the findings and recommendations of external auditors and statutory inspectors and putting in place arrangements for the implementation of agreed actions.
  - Carrying out an approved value for money review programme to benchmark our services, and ensure best use is made of the resources available to the Council.



- Delivering specific projects within an effective, corporate programme management framework, as appropriate.

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

3.5 The Council will ensure that the necessary roles and responsibilities for its governance are identified and allocated so that it is clear who is accountable for decisions that are made. The Council will do this by:

- Appointing a Leader of the Council, and executive members (cabinet members), with defined executive responsibilities.
- Agreeing a scheme of delegated executive responsibilities to directors, and protocols that make clear the respective roles of members and officers and ensure effective communication between them.
- Annually appointing committees to discharge the Council's regulatory responsibilities.
- Annually appointing committees to discharge the Council's overview and scrutiny responsibilities.
- Setting clear role definitions for chairs of committees and councillors in their different roles.
- Undertaking an annual review of the operation of the Council's constitution.
- Making the Chief Executive (the Head of Paid Service) responsible and accountable to the Council for all aspects of operational management.
- Making a senior officer (the Monitoring Officer) responsible to the authority for ensuring the lawfulness and fairness of decision-making, and that agreed procedures are followed and that all applicable statutes and regulations are complied with.
- Making a senior officer (the Section 151 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.
- Ensuring partnerships and contracts with other public bodies, voluntary and community organisations, and the private sector have clear governance accountabilities, including effective and equitable financial arrangements.
- Having in place effective and comprehensive arrangements for the scrutiny of services.

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

- 3.6 The Council promotes and maintains high standards of ethical conduct of members and officers through the work of its Standards Committee.
- 3.7 The Council will foster a culture of behaviour based on shared values, ethical principles and good conduct.

3.8 The Council will do this by establishing and keeping under review:

- The Council's Constitution.
- A Members' Code of Conduct.
- An Officer's Code of Conduct.
- A protocol governing Member/Officer Relations.
- A Members' Planning Code of Good Practice.
- Monitoring Officer Protocol.
- Media Guidelines.
- Contract Standing Orders and Financial Regulations.
- A strategy for combating fraud and corruption.
- A whistle blowing policy.

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

3.9 The Council will ensure that the decision-making process includes a rigorous risk assessment including:

- Financial, legal and staffing implications.
- Sustainability implications.
- Health Impact and Promotion implications.
- Value for Money.
- Implications for Partnerships.
- Implications for Community Safety.
- Impact on Rural Communities.
- Diversity and racial impact assessment.
- Risks, mitigations and opportunities.

3.10 The Council will be rigorous and transparent about how decisions are taken and recorded. The Council will:

- Ensure the Cabinet make decisions in an open and transparent way and that information relating to those decisions is made available to the public, unless statutory rules allow otherwise.
- Ensure that all decisions of regulatory committees of the Council are made in public and that information relating to those decisions is made available to the public, unless statutory rules allow otherwise.
- Ensure that legal and financial implications are recognised in all reports on which decisions are based.

- Record all decisions that are made by committees and key decisions made by officers (where applicable).
  - Have rules and procedures, which govern how decisions are made.
  - Develop and maintain an effective overview and scrutiny function which encourages constructive challenge.
  - Maintain an effective Standards Committee and Audit Committee.
- 3.11 The Council will continue to develop its risk management strategy that enables the Council to manage and control risks in order to maximise the quality of its service provision and uphold its reputation, making a powerful contribution to continuous service improvement and the achievement of best value.
- 3.12 The Council will ensure that the risk management system:
- Formally identifies and manages risks.
  - Involves elected Members in the risk management process.
  - Includes the undertaking of a risk assessment of every decision.
  - Maps risks to financial and other key internal controls.
  - Incorporates business continuity planning, and
  - Reviews and, if necessary, updates its risk management processes at least annually.

### **Developing the capacity and capability of Members and officers to be effective**

- 3.13 The Council will ensure that those charged with the governance of the Council have the skills, knowledge and experience they need to perform well. The Council will do this by:
- Maintaining member training and development through the Member Development Steering Group.
  - Developing leadership skills and capacity across the Council.
  - Developing our approach to workforce planning.
  - Maintaining Investor in People accreditation across all directorates.
  - Encouraging quality mark accreditation.
  - Maintaining and developing our personal development and performance review systems.
  - Cascading regular information to Members and staff by paper and electronic means, having regard to diversity issues.

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

3.14 The Council is committed to increasing public involvement in decision-making and devolving power to individuals and local organisations. We will seek and respond to the views of stakeholders and the community. The Council will do this by:

- Forming and maintaining relationships with the leaders of other organisations.
- Ensuring openness and accessibility to citizens, service users and staff, including partner organisations.
- Implementing the Corporate Consultation Strategy and utilising an appropriate range of consultation methods.
- Making use of local forums at ward, parish and neighbourhood level to maintain communication with all the Borough's communities and other stakeholders.
- Encouraging and supporting the public in submitting requests for Scrutiny.
- Maintaining and reviewing an effective complaints procedure.

## **4. MONITORING AND REVIEW**

4.1 Good corporate governance requires the active participation of Members and employees across the authority. The Corporate Governance Review Working Group has responsibility at Member level for reviewing the arrangements set out in this code. The Monitoring Officer has responsibility at officer level for monitoring and reviewing this Code and reporting to Members on its operation and on any proposed changes.

4.2 The Council has two committees that have responsibilities for monitoring and reviewing the Council's corporate governance arrangements – the Standards Committee and the Audit Committee.

4.3 The purpose of the Audit Committee is to provide independent assurance to the Council on the following responsibilities:

- the effectiveness of the Council's risk management, internal control and its overall assurance framework.
- the effectiveness of the Council's financial and non-financial performance.
- the performance of the Council's Internal Audit section.
- the receipt and review of external audit reports and liaison with external auditors on significant matters identified.
- advise upon and/or review the effectiveness of any other matters referred to the Audit Committee by the Cabinet, the Overview and Scrutiny and Regulatory Committees.

4.4 The Standards Committee has responsibility to Council for:

- the promoting and maintaining high standards of conduct.
- approving, and providing an overview of the implementation of, Member and officer codes and protocols relating to probity and conduct.
- approval of the anti-fraud and corruption strategy and whistle-blowing procedures.

4.5 Through these committees the Council will ensure that these arrangements are kept under continual review by:

- The work of Internal Audit.
- Reports prepared by managers with responsibility for aspects of this Code.
- External Audit opinion.
- Other review agencies and Inspectorates.
- Opinion from the Council's Statutory Officers.

### **The Annual Governance Statement**

4.6 Each year the Council will publish an Annual Governance Statement. This will provide an overall assessment of the Council's Corporate Governance arrangements and an appraisal of the key controls in place to manage the Council's principal governance risks. The Statement will also provide details of where improvements need to be made.

4.7 The Annual Governance Statement will be reviewed by the Audit Committee and agreed by Cabinet, for signing by the Leader of the Council and the Chief Executive.

4.8 The Statement will be published as part of the Council's Annual Statement of Accounts and will be audited by our external auditors.

April 2008

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### Contact

Enquiries line: 0845 078 8181

Minicom: 0161 817 5449

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

email: [bulletin@standardsboard.gov.uk](mailto:bulletin@standardsboard.gov.uk)

### Welcome to Issue 38 of the *Bulletin*.

Local assessment has arrived. From 8 May 2008, the new, more locally-based standards framework gives standards committees responsibility for the initial assessment of all allegations that a member of their authority may have breached the Code of Conduct. It also gives them responsibility for any subsequent investigations, decisions and sanctions. This is except where cases cannot be handled locally because of their seriousness, conflicts of interest or other public interest reasons.

Detailed regulations prescribe how the revised standards framework will work in practice. We use this *Bulletin* to summarise, in detail, the content of the Standards Committee (England) Regulations 2008. I hope that you find this useful.

As we set out in the last *Bulletin*, the Standards Board has been working hard to produce comprehensive guidance on the new standards framework. Now that the government has confirmed the detail of the regulations, we are reviewing and completing this guidance to make the transition to the new system as smooth as possible for authorities. We have already published a toolkit of template documents on our website to assist you with the local assessment of complaints. We will publish our local assessment guidance on the website by 8 May 2008.

Finally, I am sad to say that this is my final *Bulletin*, as I retire as Chief Executive of the Standards Board in June. My successor, Glenys Stacey, started work in April and looks forward to meeting as many of you as possible. I leave at an exciting time, as the responsibility for upholding high standards of member conduct moves to the heart of local government. I know that you will rise to the challenge. I would like to thank all of you for your commitment and hard work during my time at the Standards Board. It has been a pleasure working with you and I wish you every success in the operation of the new arrangements.



**David Prince**  
Chief Executive

## **Standards Committee (England) Regulations 2008: A summary**

The following article summarises in detail the content of the Standards Committee (England) Regulations 2008.

### **Composition of standards committees**

At least 25% of a standards committee must be made up of independent members. No more than one member of an authority's standards committee can be a member of the executive.

Where an authority must have parish representatives it must now ensure that it has at least two who are not also members of the authority. Previously one was enough.

### **Appointments to standards committees**

Normally, a person cannot be appointed as an independent member of a standards committee unless:

- the appointment is approved by a majority of the members of the authority
- the appointment is advertised in a local newspaper circulating in the area
- the person has submitted an application to the authority
- the person has not been a member or officer of the authority within the previous five years and is not a relative or close friend of a member or officer of the authority

The new regulations do not change this, but add that advertisements can be placed in any other publications or websites the authority considers appropriate.

However, they do provide that a person who is an independent member of one standards committee may be appointed as an independent

member of another. This is unless they have been a member or officer of it in the preceding five years or are a relative or close friend of a member or officer of that authority.

An independent member of another authority can be appointed for a specific period of time. Alternatively, they can be appointed to deal with a particular allegation or set of allegations against a member. The term of office of such an independent member can then be fixed accordingly.

An authority can adopt whatever procedures it thinks fit to appoint such independent members and members of parish councils. It must consider the Standards Board for England's standards committee guidance, to be published in May, when making these appointments.

Where a person who is appointed as an independent person becomes a member or officer of any authority, or becomes a relative of a member or officer of that authority, they can no longer be a member of the standards committee.

### **Sub-committees of standards committees**

The standards committee of an authority must appoint a sub-committee chaired by an independent member to carry out initial assessments of allegations. This is under Section 57A of the Local Government Act 2000.

It must also appoint a sub-committee chaired by an independent member to carry out reviews under Section 57B of the Local Government Act 2000. If the standards committee appoints a sub-committee to hold hearings, that sub-committee must be chaired by an independent member. Nothing in the regulations requires a sub-committee of a standards committee to have fixed membership or chairmanship.



## Validity of proceedings

For a meeting of the standards committee to be valid at least three members must be present, one of whom must be an independent member. The independent member must chair the meeting. For a meeting of a standards committee sub-committee to be valid at least three members of the standards committee must be present, including normally at least one elected member and one independent member. In either case, if parish issues are being discussed, one of the three members present must be a parish representative. An independent member must usually chair a sub-committee meeting.

No member who took part in the initial assessment of an allegation can attend a sub-committee meeting that is considering a review of a decision to take no further action on a matter.

At least one parish or town council representative must attend a standards committee meeting, or a standards committee sub-committee meeting, convened to consider a matter relating to a member of a parish or town council.

## Application of the Local Government Act 1972

The existing rules about publicity and access to documents apply, except that initial assessment hearings and reviews are excluded from the scope of Part VA of the Local Government Act 1972. They are replaced with the following requirements:

- After the meeting, the sub-committee must produce a written summary. The written summary must record the main points considered, the conclusions reached and the reasons for them. It must be prepared having considered the Standards Board for England's standards committee guidance, which is to be published in May.

- The sub-committee may also give the name of any member subject to allegations unless such disclosure is not in the public interest or would prejudice any investigation. The record must be available for inspection by members of the public at the offices of the authority for six years after the meeting and must be given to any parish or town council involved.

## Written allegations

Standards committees must publish details of the address or addresses that written allegations should be sent to. Standards committees themselves can choose how they do this. They must also take reasonable steps to ensure that the public are kept aware of address details and that any changes to them are published promptly.

In addition, standards committees must publish details of the procedures they will follow.

A standards committee must take account of relevant guidance issued by the Standards Board when complying with these obligations.

## Modification of duty to provide written summaries to members subject to allegations

Under Section 57C(2) of the Local Government Act 2000, a standards committee must take reasonable steps to give a written summary of the complaint to the member subject to the allegation. The new regulations provide that this duty does not arise if the standards committee decides that giving a written summary would be contrary to the public interest. Standards committees also need not provide a written summary if it would prejudice any person's ability to investigate the allegation.

The standards committee must take account of any guidance issued by the Standards Board when reaching a decision. It may also consider any advice received from the monitoring officer or any ethical standards officer concerned.

Once the monitoring officer or ethical standards officer has advised the standards committee that it would no longer be against the public interest or prejudicial to any investigation, a written summary must be provided. In any event this must be done before any consideration by the standards committee or sub-committee of a report or recommendation from a monitoring officer or ethical standards officer about that allegation.

### **Modification of Section 63 of the Local Government Act 2000**

Section 63 of the Local Government Act 2000 has been modified so that the confidentiality requirements in that section are applied to information gathered by the monitoring officer in the course of an investigation. The monitoring officer can disclose this information if it is for the purposes of carrying out their functions under the legislation, or for enabling a standards committee, a sub-committee or an appeals tribunal to do so.

### **Referral of matters to a monitoring officer for other action**

There may be occasions where a matter is referred to a monitoring officer by a sub-committee of a standards committee or an ethical standards officer, with a direction to take steps other than carry out an investigation. The sub-committee can only make such a referral after consulting the monitoring officer. Other action can include arranging training, conciliation or anything else that appears appropriate.

The monitoring officer must submit a written report to the sub-committee or ethical standards officer within three months, giving details of what action has been taken or is proposed to be taken. If the standards committee is not satisfied with the action specified in the report, it must give a further direction to the monitoring officer.

If the ethical standards officer concerned is not satisfied with the action specified in the report, they may ask the monitoring officer to publicise a statement. This statement should be published in at least one newspaper circulating in the area of the authority concerned. This should give details of the direction given by the ethical standards officer, the reasons why the ethical standards officer is dissatisfied with the action taken, and the monitoring officer's response to those reasons.

### **Referral of matters to a monitoring officer for investigation**

Where a matter is referred to the monitoring officer for investigation, the monitoring officer must inform the following parties that the matter has been referred for investigation:

- any member subject to an allegation
- the person who made the allegation
- the standards committee of any other authority concerned
- any parish or town council or other authority concerned

The monitoring officer must also consider any relevant guidance issued by the Standards Board, and must comply with any relevant direction given by it.

The monitoring officer can make enquiries of anyone and require them to provide information or explanations that the monitoring officer thinks necessary. In addition, they may require any of the authorities concerned to provide advice and assistance as reasonably needed, and, except for parish and town councils, to meet the reasonable costs of doing so.

If any of the authorities concerned is a parish council, the monitoring officer may require its responsible authority to meet any reasonable costs it incurs. The monitoring officer may also require any of the authorities concerned to allow reasonable access to documents they possess,

which the monitoring officer may find necessary to conduct the investigation.

Following an investigation, a monitoring officer must make one of the following findings:

- Finding of failure – there has been a failure to comply with the Code of Conduct of the authority concerned or, as the case may be, of any other authority concerned.
- Finding of no failure – there has not been a failure to comply with the Code of Conduct of the authority concerned or, as the case may be, of any other authority concerned.

The monitoring officer must prepare a written report concerning the investigation and findings. They must then send that report to the member subject to the allegation and refer the report to the standards committee. The report can also be sent to any other authority that the member belongs to, if they request it. The monitoring officer must refer the report to the standards committee in instances where an investigation report is sent to the monitoring officer by an ethical standards officer.

### References back from the monitoring officer

In cases referred to a monitoring officer for investigation after an initial assessment, the monitoring officer can refer that matter back to the standards committee concerned if:

- 1) as a result of new evidence or information, the monitoring officer believes both of the following:
  - The matter is materially more or less serious than may have seemed apparent to the standards committee when it made its decision on the initial allegation.
  - The standards committee would have made a different decision had it been

aware of that new evidence or information.

- 2) the member subject to the allegation has died, is seriously ill or has resigned from the authority concerned, and the monitoring officer believes that it is consequently no longer appropriate to continue with an investigation

If a matter is referred back to a sub-committee under this regulation, the sub-committee must make a decision as if the matter had been referred to it for initial assessment. It can remove the ability of the monitoring officer to refer the matter back again.

### Consideration of reports by standards committee

Where a monitoring officer refers a report to the standards committee of any authority, it must consider that report and make one of the following findings:

- Finding of acceptance – it accepts the monitoring officer's finding of no failure to comply with the Code of Conduct.
- The matter should be considered at a hearing of the standards committee.
- The matter should be referred to the Adjudication Panel for England for determination.

A standards committee can only refer a case to the Adjudication Panel if:

- 1) it decides that the action it could take against the member would be insufficient were a finding of failure to be made
- 2) the President or Deputy President of the Adjudication Panel has agreed to accept the referral

The standards committee must give written notice of a finding of acceptance to the parties involved, as soon as possible after making it. It must arrange for the decision to be published in at least one local newspaper and, if the committee deems it appropriate, on its website and any other publication. If the member subject to the allegation requests that the decision not be published, then the standards committee must not publish it anywhere.

### Hearings by a standards committee

A standards committee can conduct a hearing using whatever procedures it considers appropriate in the circumstances. But the meeting must be conducted with regard to relevant guidance issued by the Standards Board.

The hearing must be held within three months of the date of which the monitoring officer has received a report referred by an ethical standards officer or the date that the report is completed, if it was prepared by the monitoring officer.

If it cannot be held within three months of the above, it must be held as soon as possible thereafter.

The hearing must not be held until at least 14 days after the date that the monitoring officer sent the report to the member subject to the allegation, unless the member concerned agrees to the hearing being held earlier.

Any member who is the subject of a report being considered by the standards committee must be given the opportunity to present evidence and make representations at the hearing orally. Alternatively, they can make representations in writing, personally or through a representative. The representative can be a barrister, solicitor or, with the consent of the standards committee, anyone else.

A standards committee may arrange for witnesses that it thinks appropriate to attend and a member subject to an allegation may arrange to call any number of witnesses. It may also place a limit on the number of witnesses a member calls if it believes that the number is unreasonable.

If the member subject to the allegation fails to attend a hearing, the standards committee may make a decision in their absence. This is unless it is satisfied that there is sufficient reason for the member subject to the allegation failing to attend. It may alternatively adjourn the hearing to another date.

A standards committee may, at any stage prior to the conclusion of the hearing, adjourn the hearing and require the monitoring officer to seek further information. Alternatively, it may require the monitoring officer to carry out further investigation on any point it specifies. However, the standards committee cannot adjourn the hearing more than once.

If a standards committee receives a report from an ethical standards officer, it may adjourn the hearing at any stage before it concludes, and refer it back to the ethical standards officer for further investigation. It must set out its reasons for doing this.

The ethical standards officer must respond to the request within 21 days and can accept or refuse it. If the request is refused, the standards committee must continue the hearing within three months or as soon as possible thereafter.

### Standards committee findings

Following a hearing, a standards committee will make one of the following findings about the member subject to the allegation:

- The person had not failed to comply with the Code of Conduct.

- The person had failed to comply with the Code of Conduct but that no action needs to be taken.
- The person had failed to comply with the Code of Conduct and that a sanction should be imposed.

If the member subject to the allegation is no longer a member of any authority, the committee can only censure that person. Otherwise, it must impose any one or a combination of the following sanctions:

- Censure.
- Restriction for up to a maximum of six months of that member's access to the premises and/or resources of the authority. This is provided that any such restrictions are reasonable and proportionate to the nature of the breach, and do not unduly restrict the person's ability to perform their functions as a member.
- Partial suspension of that member for up to a maximum of six months.
- Suspension of that member for up to a maximum of six months.
- A requirement that the member submit a written apology in a form specified by the standards committee.
- A requirement that the member undertake training as specified by the standards committee.
- A requirement that the member undertake conciliation as specified by the standards committee.
- Partial suspension of the member for up to a maximum of six months or until such time as the member submits a written apology in a form specified by the standards committee.

- Partial suspension of the member for up to a maximum of six months or until such time as the member undertakes any training or conciliation specified by the standards committee.
- Suspension of the member for up to a maximum of six months or until such time as the member submits a written apology in a form specified by the standards committee.
- Suspension of the member for up to a maximum of six months or until such time as that member undertakes such training or conciliation as the standards committee specifies.

Normally any sanction imposed must start immediately following its imposition. However, the standards committee can decide that any sanction will start on any specified date up to six months after the imposition of that sanction.

### Notification of standards committee findings

The notification provisions under the new regulations are similar to the ones under the previous regulations. All interested parties, including the Standards Board, should be notified of a decision along with the reasons for it. The standards committee must arrange for a notice to be published in a local newspaper and, if the committee thinks it appropriate, on its website and any other publication. If the member concerned is found not to have failed to comply with the Code of Conduct, a summary must not be published anywhere if the member so requests.

Where the standards committee finds that the member has failed to comply with the Code, the notice to the member concerned must include the right to appeal in writing against the decision to the President of the Adjudication Panel for England.

### Appeals

The member who is the subject of a finding can

ask for permission to appeal within 21 days of receiving notification of the committee's decision. They can also apply for the suspension of any sanction imposed until such time as any appeal is decided.

Any appeal must specify whether the appeal is against the finding or the sanction or both. It must also specify:

- the grounds of the appeal
- whether any application for suspension of any sanction is made
- whether the person consents to the appeal being dealt with in writing only

The application for permission to appeal or to suspend a sanction will be decided by the President of the Adjudication Panel for England. In the absence of the President this will be decided by the Deputy President, unless they consider that special circumstances render a hearing desirable.

If permission is refused, or if a suspension of a sanction is not granted, the notice given to the member concerned will give the reasons.

The conduct of appeals, the composition of appeals tribunals and the procedures to be followed are essentially the same as under the previous regulations.

### Outcome of appeals

Where an appeals tribunal dismisses a standards committee's finding, the committee's decision, including any sanction imposed, will cease to have effect from the date of the dismissal.

Where an appeals tribunal upholds the finding of a standards committee that there has been a breach of the Code of Conduct but that no sanction should be imposed, it may confirm the committee's decision to impose no sanction. Alternatively, it may impose any sanction which was available to that standards committee.

Where an appeals tribunal upholds a standards committee's finding, or part of a finding, that there has been a breach of the Code of Conduct, it may confirm any sanction imposed by that committee. Alternatively, it may substitute any other sanction which was available to that standards committee.

Normally any sanction imposed must start immediately following its imposition by the appeals tribunal. However, an appeals tribunal can decide that any sanction imposed should start on any specified date up to six months after the imposition of that sanction.

The appeals tribunal must arrange for a summary of its decision to be published in one or more newspapers circulating in the area of the authorities concerned.

## Complaints from the public

As local authorities prepare to receive and assess complaints about member conduct, we are passing on our advice about dealing with complaints from members of the public. Although these formed the majority of the complaints we received, the fact that most members of the public are not specialists in local government, the Code of Conduct or in making a complaint means that they will need support.

Our experience suggests that if members of the public do not understand the process, including the possible or likely outcomes if their complaint is upheld, then they are more likely to be unhappy about the outcomes of cases. Feedback we have received also suggests that not all local authorities are making information readily available on how to make a complaint. This will be a statutory requirement from May this year.

In short, our key recommendations based on our experience of dealing with complaints from the public are:

- Complaint materials should be easily available and the complaint process should be made very clear from the start.
- Complaint materials and responses to complaints need to be clear and concise. They should explain exactly what can and cannot be done, including an outline of the powers available.
- Complaint materials should assume complainants are unfamiliar with how to make a complaint, the Code of Conduct and the authority's complaint process.

## Update on the new local reporting system

In the last issue of the *Bulletin* we provided a brief overview of the new reporting mechanism that monitoring officers will use to notify us about local activity relating to the standards framework each quarter.

We aim to launch the system on 8 May 2008. To ensure that it works well, we have recently carried out some external testing. We advertised for volunteers in the ACSeS (Association of Council Secretaries and Solicitors) bulletin and were delighted by the number of monitoring officers who got in touch and expressed an interest.

Each volunteer was asked to submit a mock quarterly return using real, but anonymised, case information and to report back on their experience. The exercise has proven invaluable and the feedback has been encouraging. Aside from some issues with speed that are being attended to, monitoring officers have confirmed that the system is easy to use and that the questions being asked are clear and understandable.

The next stage for us is to implement some of the tweaks and improvements suggested by our external testers and to compile a user guide to accompany the system launch documentation.

All monitoring officers will be contacted via email ahead of the introduction of the new system, with information about how to log on and instructions about how and when to submit their return.

In addition to the user guide, we plan to provide telephone and email support to monitoring officers who are making information returns. This will ensure that the process is as uncomplicated and painless as possible.

## Forthcoming event

### The National Association of Local Councils Conference 2008

Winter Gardens, Eastbourne  
Tuesday 20 to Thursday 22 May 2008

At this year's National Association of Local Councils (NALC) event, we will have policy staff on hand to answer your questions at exhibition stand four.

Our new Chief Executive Glenys Stacey, and independent Board Member Councillor Shirley Flint, will also be delivering a presentation and answering questions.

## Press toolkit

The Standards Board's press office is preparing a toolkit to help local authority press offices deal with media interest in referrals, investigations and hearings once the local framework comes into effect.

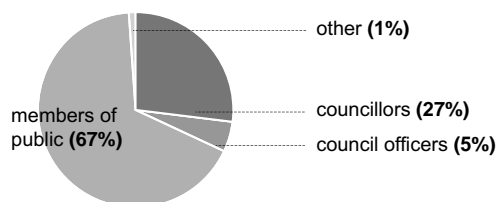
It will include advice on how to publicise the changes in the ethical framework, raise awareness of standards committees' work, and offer help on dealing with enquiries about complaints and investigations reactively. The toolkit will also include FAQs, guidelines, templates for press releases and best practice advice. The toolkit is currently being drafted in light of the regulations, and will be issued directly to local authority press offices.

## Referral and investigation statistics

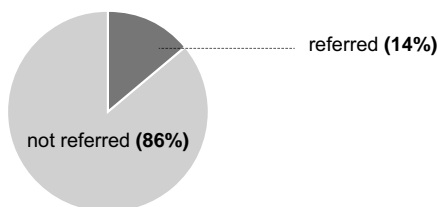
The Standards Board for England received 3,624 allegations between 1 April 2007 and 31 March 2008, compared to 3,549 during the same period in 2006-2007.

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

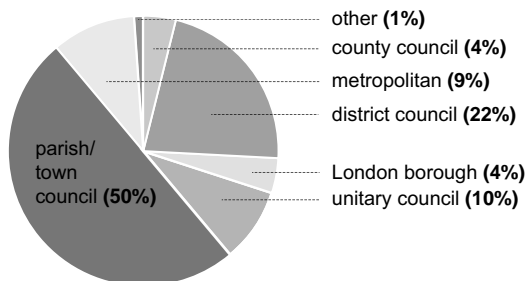
Source of allegations received



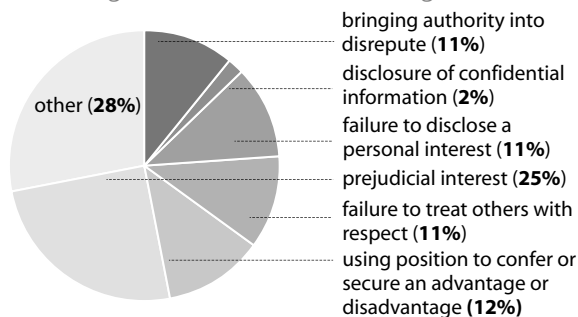
Allegations referred for investigation



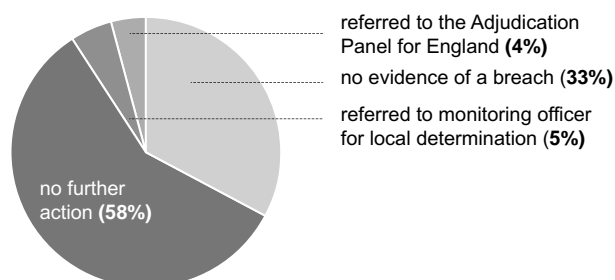
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



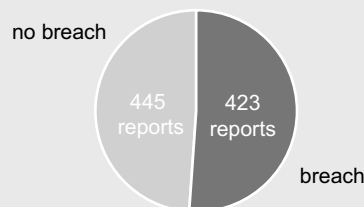
Final findings



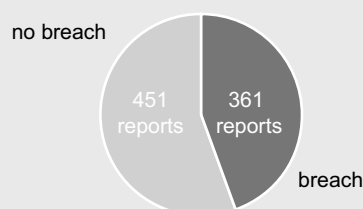
## Local investigation statistics

For the period 1 April 2007 to 31 March 2008, ethical standards officers referred 291 cases for local investigation, which is 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. Since November 2004 we have referred 1,097 cases for local investigation – please see below for a statistical breakdown of the cases that have been determined.

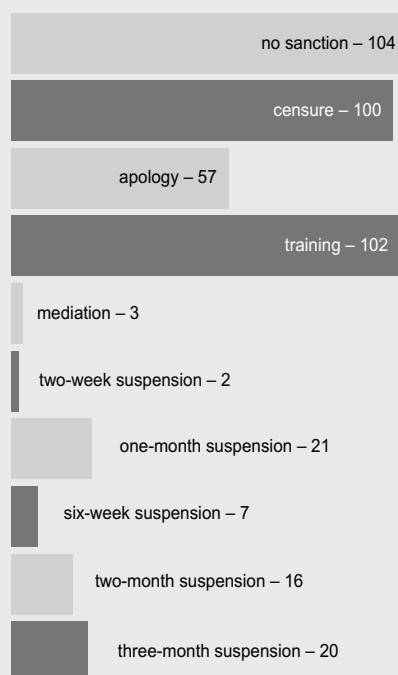
Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations





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### Contact

Enquiries line: 0845 078 8181

Minicom: 0161 817 5449

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

email: [bulletin@standardsboard.gov.uk](mailto:bulletin@standardsboard.gov.uk)



Welcome to Issue 39 of the *Bulletin*.

I am pleased to introduce my first *Bulletin* since succeeding David Prince as Chief Executive of the Standards Board for England. I look forward to meeting many of you and working closely with you over the coming months.

Local assessment is now in place, and the last couple of months have been busy for local authorities preparing for the introduction of the devolved framework. Some standards committees have already risen to the challenge of assessing their first Code of Conduct complaints.

In this *Bulletin*, we present the personal reflections of the Strategic Director at Newark and Sherwood District Council on preparing for local assessment. I hope that you find this an interesting read. We also focus on the new online local reporting system. We are confident you will find this system easy to use.

You are probably aware of the Standards Board's next Annual Assembly of Standards Committees, due to be held in October 2008. *Delivering the Goods: Local Standards in Action* is proving to be our most popular Annual Assembly ever, with more than 90% of places already booked. If you have already secured your place, we would advise you to return your conference session preference form as soon as possible to make sure you get your first choice of sessions – they are filling up fast!

Finally, I am pleased to introduce the new Chair of the Standards Board, Dr Robert Chilton. Dr Chilton will succeed Sir Anthony Holland in July 2008 and we present a brief biography in this *Bulletin*.



**Glenys Stacey**  
Chief Executive

## Launch of the Standards Board's online local reporting system

Our new local reporting system went live on 8 May 2008 to coincide with the introduction of local case handling. It was launched by an email sent to all monitoring officers in our contact database. The reporting system consists of a short questionnaire about the authority and the standards committee, a section to enter some basic information about each case the standards committee has received, and some guidance materials.

You can access the reporting system by visiting the Resources section of our website, [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk), and clicking on the 'Monitoring returns' menu item. This will take you directly to the login page.

Alternatively, you can go directly to <https://authority.standardsboard.gov.uk>.

### Support

We have tried our best to make the reporting system as easy to use as possible. Once you log in, click on the 'online help' link in the left-hand menu for an online guide to using the system. There is also an A-Z of questions document, which explains in more detail what is expected from each of the questions asked in the form.

Any queries about the quarterly return process can be sent to: [authorityreturns@standardsboard.gov.uk](mailto:authorityreturns@standardsboard.gov.uk) or you can speak to the Monitoring Team by calling 0161 817 5300.

### Who should complete and submit the quarterly return?

The monitoring officer is accountable for submitting accurate and timely returns at the end of each quarter. We know that some monitoring officers will delegate the task of filling out and

submitting the return to someone else in their authority. However, as the accountable person, we will continue to send all correspondence regarding quarterly returns only to the monitoring officer.

It is the monitoring officer's responsibility to ensure that the person they have delegated monitoring returns to is kept up-to-date of any email notifications from us.

### How the quarterly return process works

We will be analysing and reporting on case handling activity within each quarter. The quarters are defined by the financial year as follows:

- **Quarter 1** is the beginning of **April** to the end of **June**.
- **Quarter 2** is the beginning of **July** to the end of **September**.
- **Quarter 3** is the beginning of **October** to the end of **December**.
- **Quarter 4** is the beginning of **January** to the end of **March**.

Due to the delayed start of local assessment, the very first period we are collecting information for is 8 May 2008 to the end of June 2008.

As a result of the need to collect returns as quickly and efficiently as possible at the end of each quarter, there will be a period of ten working days within which submissions must be made. This period, which we will refer to as the 'submission window', will start on the day after each quarter has ended. The dates for this for the current financial year are shown on **page 3**.

We will send an email reminder to all monitoring officers when their submission is due.

## Submission window dates for the current financial year:

- **Quarter 1**  
01 July 2008 to 14 July 2008\*
- **Quarter 2**  
01 October 2008 to 14 October 2008\*
- **Quarter 3**  
02 January 2009 to 15 January 2009\*
- **Quarter 4**  
01 April 2009 to 16 April 2009\*

\*Midnight on these closing dates.

## What happens next?

As the framework beds in and quarterly returns are collected, we will begin to build up a national picture of how successful the implementation of case handling has been. We will be able to collect data on specific areas of the framework to allow us to pinpoint good practice and identify any areas of concern as trends emerge. We may contact monitoring officers to request further details about particular cases to help us do this.

As we no longer have responsibility for investigating all cases on a national level, we will not be able to continue publishing summaries of completed investigations on our website. Instead, we will produce quarterly statistics about cases handled across the country. We also intend to compile a report highlighting notable practice in local case handling on an annual basis.

If you are a monitoring officer and you have not received the launch email with your username and password, please contact our monitoring team on **0161 817 5300** or email [authorityreturns@standardsboard.gov.uk](mailto:authorityreturns@standardsboard.gov.uk).

## New guidance published

The latest guidance to support local authorities in the implementation and function of the local standards framework is now available to download from the Guidance section of our website [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk).

Four pieces of guidance and two toolkits have now been published:

- **Local assessment of complaints:** Details each stage of the process, as well as offering guidelines for best practice.
- **Local assessment toolkit:** Useful document templates for local assessment, which can be used or adapted by authorities as required.
- **The role and make-up of standards committees:** Advice on setting up and operating effective committees.
- **Local investigations and other action:** An overview of the issues involved in local investigations and other action.
- **How to conduct an investigation:** A comprehensive guide to conducting an investigation.
- **Investigations toolkit:** Useful document templates to help with conducting investigations locally, which can be used or adapted by authorities as required.

Guidance on standards committee determinations will be published on our website in early July 2008.

## Reviews of local assessment decisions: Timeframe for review requests

If a standards committee decides not to take any action on a Code of Conduct complaint, then the complainant has a right of review over that decision. The complainant should be advised of their right to ask for a review of a decision to take no action. They should also be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review.

The standards committee must receive the complainant's review request within 30 days from the date on the initial assessment decision notice.

We would like to clarify that this is 30 days in total and not 30 working days. Our *Local assessment of complaints* guidance, available from our website, has been updated to reflect this position.

## Local assessment – A personal reflection

**Kirsty Cole**  
**Strategic Director (Corporate Services)**  
**Newark and Sherwood District Council**

I had thought that Newark and Sherwood District Council was reasonably well placed for meeting its new duties and responsibilities when the local assessment of complaints was introduced by the Standards Committee (England) Regulations 2008 on 8 May 2008.

We had decided in the autumn of last year to increase the size of the standards committee to 15, with four independent members, four parish representatives and seven elected members, in order to ensure that we had a sufficient pool from which to draw when setting up assessment and review sub-committees and hearing panels.

We had placed adverts for new members before Christmas last year and our standards committee chair was profiled in the November issue of our council newsletter, setting out the work undertaken by the standards committee, outlining its new role in the local assessment of complaints and encouraging people to come forward for positions on the standards committee.

Our marketing campaign was extremely successful and we were able to recruit three new independent members of an extremely high calibre to the standards committee, together with two additional parish representatives (our two existing parish representatives are continuing their term of office for a further year to provide some continuity in the changeover to the new arrangements).

The new appointments were confirmed at the February council meeting and all the new members were given induction training on the work of the standards committee – not just in the local assessment of complaints, but on the standards committee's wider role in embedding high standards of ethical conduct within the organisation and across the parish councils within our district.

We had already participated in the Standards Board's local filter pilot in July 2007, and Newark and Sherwood District Council had been instrumental in organising further county-wide training on the local assessment of complaints in early March 2008, in which our new standards committee members had participated.

However, what I had not anticipated in the first week of May 2008 was the sheer volume of paperwork which I would need to prepare in a very short timescale, and I certainly hadn't anticipated that we would receive our first complaint immediately after the Regulations came into effect and before our standards committee had even had the chance to meet to set up its assessment and review sub-committees.

Fortunately, I had built in an initial step within our complaints procedure that, unless a complainant indicated otherwise, we would endeavour to resolve any complaint informally through local resolution prior to its submission to the assessment sub-committee.

I consider that this step is permitted within the regulatory framework as there is no legal requirement to place the complaint before the assessment sub-committee until a written complaint has been sent to the standards committee (Section 57C of the Local Government and Public Involvement in Health Act 2007). Fortunately, this particular complaint had been expressly addressed to the Chief Executive.

We managed to get a copy of the complaint form and a notice about the new arrangements onto the council's website before 8 May 2008 – but only just! – and we are still working through the various forms and other documents for which the Standards Board has helpfully provided templates in its toolkit.

Our standards committee will meet on 11 June 2008 to formally establish the assessment sub-committee and review sub-committee, which we will draw from a panel of members of the standards committee rather than having a fixed membership. I believe that, as monitoring officers, we have to make pragmatic judgements of what will work in practice and where any risk or challenge might lie.

The Standards Board is to be commended in producing template documentation and guidance so promptly and efficiently. I know that because of the speed with which the Standards Board was required to turn things around, there have been some amendments to the guidance which was initially issued. As a word of caution, you need to double check the Standards Board's website to ensure that you are working to the most up-to-date guidance.

In summary, I am glad that we had increased the size of our standards committee well in advance of 8 May 2008 and that we had had the invaluable experience of participating in the local filter pilot. However, we still found ourselves in a position where we were not fully prepared when the new regulations came into effect and we are still working hard in putting all the documentation and procedures in place. It was a much bigger task than I had envisaged and would have been virtually impossible without the help and support offered by the Standards Board.



### **CLG appoints new Chair of the Standards Board**

The Secretary of State for Communities and Local Government (CLG) has

appointed Dr Robert Chilton as the new Chair of the Standards Board for England. He will take over from Sir Anthony Holland on 1 July 2008 for a three-year term.

Dr Chilton's association with local government goes back to 1965 when he began his career in regional planning. From the mid-1980s he has held positions as Chief Executive of Gillingham Borough Council, Director of Local Government Studies at the Audit Commission, Head of Transition and then interim Chief Executive of the Greater London Authority, and interim Commissioner for Transport at Transport for London.

He is also a non-Executive Director of the Waste and Resources Action Programme, a Board Member for the Office of the Information Commissioner, Chair of the major London housing association the East Thames Group, and Deputy Chair of ICSTIS, the premium rate phone regulator.

In announcing Dr Chilton's appointment on 13 May 2008, Minister for Local Government John

Healey expressed his confidence in Dr Chilton's "strategic vision" and "deep understanding and experience of local government". He also thanked Sir Anthony Holland for his hard work over the past seven years.

### **Bulletin statistics**

Due to the introduction of local assessment and our changing role, we will be reporting different statistical information from now on. This information will be available following the analysis of information collected through our online local reporting system. To find out more about the operation of this system, please see **page 2** of this *Bulletin*.

## Annual Report and Work Programme

Standards Committee

Date: 14 July 2008

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

**Wards Affected:** All

### Purpose

- To ask the Committee to agree its Annual Report for 2007/08 and Work Programme for 2008/09.

### Recommendation

- That the Committee considers and agrees its Annual Report for 2007/08 and forwards it to Full Council for information.
- That the Committee considers and agrees its Work Programme for 2008/09.

## 1. Reasons

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

## 2. Detail

### *Standards Committee Annual Report*

- 2.1 The Standards Committee each year prepares an Annual Report summarising the work of the Committee and highlighting the various aspects of the Ethical Framework considered by the Committee. This is presented at Full Council, in order to inform Members of the role played by the Committee in promoting and maintaining high standards of conduct, involve all Members in the work of the Committee, and continue to raise the profile of the ethical framework for Members.
- 2.2 The draft of the Annual Report for 2007/08 is attached at Appendix '1'. The Committee is asked to consider if this accurately reflects its work for the year, and to make any amendments. The Chair of the Standards Committee will add a foreword to the Report. Once agreed the Report will be presented to the next Full Council meeting.

### *Work Programme*

- 2.3 An outline work programme for the Committee for 2008/2009 is attached at Appendix '2' for discussion and approval.

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

# Annual Report and Work Programme

Standards Committee

Date: 14 July 2008

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## Alternative Options

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

## Risk Management

### *Financial and Procurement Implications*

- None

### *Legal / Human Rights Implications*

- None

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

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

## Consultees

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

## Background Papers and Appendices

- Appendix 1 – Draft Annual Report 2007/08
- Appendix 2 – Draft Work Programme 2008/09

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



Swindon Borough Council

**Annual Report of the Standards Committee**

May 2007 to April 2008

## **INTRODUCTION BY THE CHAIR**

To be inserted

Keith Carby – Chair of Standards Committee.

## Background to the Standards Committee

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

During 2007/08 it had powers to investigate and hear cases of breaches of the Members Code of Conduct, referred to it by the Standards Board for England and to determine whether a breach has been committed and impose appropriate sanctions. The Committee is supported by the Director of Law and Democratic Services (Monitoring Officer) and a Committee Officer.

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

## Membership of the Committee

During 2007/08 the membership of the Committee was as follows:

Independent Members	<ul style="list-style-type: none"> <li>Mr Keith Carby (Chair of the Standards Committee) (appointed until May 2008).</li> <li>Mr Trevor Davies (Vice-Chair of Standards Committee) (appointed until 2011).</li> <li>Mr Paul Morris (appointed until 2010).</li> </ul>
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Parish Council Representative	<p>Mr Mike Compton (Blunsdon Parish Council) has continued to serve the Committee during 2007/08 as a voting representative for the parish councils nominated by the Swindon Area Committee of Parish Councils.</p> <p>(Mr Richard Hailstone, Deputy Parish Representative, stepped down during the year).</p>
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Elected Members	<p>Councillors Melanie Duff, Maurice Fanning and Martin Wiltshire</p> <p>Deputies: Councillor Fay Howard and Peter Stoddart</p>
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In January 2008, the Committee decided that in order to be prepared to use new powers from May 2008 to receive Code of Complaints, and to provide the first stage of filtering complaints, as well as hearing and investigating, it would be necessary to extend the Committee. The Committee recommended to the Council that the membership be increased to five Councillors, 4 Independent Members and 2 Parish Councillors.

As a consequence, the Director of Law and Democratic Services advertised for in two independent members to begin in May 2008, and subsequently Mr Keith Carby has been re-appointed and Mr David Dawson appointed as a new member, each to serve 4-year terms of office from May 2008. In addition, Mr Martyn Cook has been appointed as a second Parish Representative to work alongside Mr Mike Compton, following nomination by the Swindon Area Committee.

The Full Council has approved the increase in Membership and four full Members and one deputy have been appointed from May 2008.

## **WORK PROGRAMME FOR 2007/2008**

The Standards Committee met four times between May 2007 and April 2008, and held a local filter pilot workshop session in July 2007.

The following is a summary of the Committee's activities.

### **Local Consideration of Code of Conduct Complaints – New Standards Committee Powers.**

During the year the Committee has been actively involved in the preparations for the introduction of new powers for the Standards Committee and the national Standards Board.

The Local Government and Public Involvement in Health Bill, arising out of the Local Government White Paper 'Strong and Prosperous Communities' issued in October 2006 proposed:

- New powers for the Standards Board,
- Revision of the Code of Conduct,
- New local filtering powers,
- New powers for Standards Committees to decide appeals on the designation of a post as politically restricted.

As part of the early stages of preparation, the Committee agreed to be one of fifty Standards Committees across the Country taking part in a Standards Board Pilot for developing the procedures for the local filtering of complaints. The Committee received a set of real cases, which had already been determined by the Standards Board, and met in a workshop to do a mock first stage filter of those complaints. Feedback was provided to the Standards Board on each case, on the time taken to determine the case, the outcome and giving detailed reasons for decisions made with reference to the Code of Conduct. This was a valuable exercise, enabling the Committee to shape the national development of the local filter process and giving experience to Standards Committee members in operating the likely local filter process.

In December 2007, the Council took part in a second pilot, with the Committee Officer on behalf of the Monitoring Officer and Standards Committee testing an online submission system being developed by the Standards Board to enable a quarterly return from each local authority on complaints received and deal with under the new arrangements. Once again, detailed feedback was provided to the Board, to assist with improvements to the system, prior to its introduction.

At its January 2008 meeting, the Committee responded to the Department for Communities and Local Government (DCLG) Consultation Paper entitled 'Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England', orders which would put into effect the Local Government and Public Involvement in Health Act of October 2008.

The Committee responded to the consultation, which looked at the detailed arrangements for a revised more locally-based ethical regime to include:

- ⌘ Standards Committees' powers to make initial assessments of misconduct allegations.
- ⌘ Additional options for the Standards Committees and the Adjudication Panel in issuing penalties and sanctions.
- ⌘ The new strategic role for the Standards Board for England to provide supervision, support and guidance for the regime.
- ⌘ Amendments to the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority political assistants.

As the final Regulations to come into effect on 1<sup>st</sup> May 2008 had still not been issued at the point of the Committee meeting on 14<sup>th</sup> April 2008, the Committee reviewed the DCLG summary of the consultation responses and its proposals for what would be included in the Regulations. The Committee also considered the Local Government Information Unit's Policy Briefing on the Act. The Committee authorised the Monitoring Officer to update the Standards Committee Terms of Reference and the Constitution as required to reflect any changes to the remit of the Committee arising from the Act and Regulations, when issued. It was noted that the immediate Regulations would relate specifically to local consideration of complaints, but would be followed by further Regulations during 2008/09 to put into effect other aspects of the Local Government and Public Involvement in Health Act 2007.

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

The Council adopted the new Members Code of Conduct at the Annual Council meeting on 18<sup>th</sup> May 2007, following the recommendation of the Standards Committee on the basis of a model code from the Department of Communities and Local Government (DCLG).

A series of training sessions were arranged for Councillors, Parish Councillors and Co-opted Representatives on the operation of the New Code of Conduct and the Committee viewed a training DVD issued by the Standards Board on the Code at its meeting in October 2007.

It was recognised at the time of adoption that it would be necessary to review other Council Codes and Protocols contained within the Constitution, relating to Members' Conduct to reflect the changes in the Code. The Committee at its meeting on 29<sup>th</sup> October 2007 agreed revisions to the following Codes of Conduct:

- ⌘ Monitoring Officer Protocol
- ⌘ Councillor Role Definitions
- ⌘ Guidance to Councillors on Dealings with the Media (incorporating changes agreed as part of a review during 2006/07 and reported back to the Committee in July 2007)
- ⌘ Protocol of Member / Officer Relationships
- ⌘ Members Planning Code of Good Practice

One of the concerns which the Committee had highlighted when the national Code of Conduct was drafted was a change to the treatment of confidential information, enabling Members to disclose information received in confidence, if such as disclosure was reasonable and in the public interest. One of the changes recommended to the Member / Officer Protocol at this point, was to require Members to seek the advice of the Monitoring Officer before disclosing such information under these provisions. This enables the new Codes provisions to operate consistently, while safeguarding Members when making a decision to disclose information.

The revised Codes and protocols as set out above were issued for full consultation with Borough Councillors, Parish Councils, Group Directors, Directors (including Primary Care Trust Joint Directors), Head of Internal Audit, Communication, Political Assistants, Capita (except Planning Code), Planning Committee and Developers Forum (Planning Code only).

The Committee reviewed the consultation responses in January 2008, and agreed a number of further changes as a result of the consultation. For example, Role Definitions were adopted for Standards Committee and Audit Committee Chairs and Members, and for Opposition Group Leaders in order to have definitions within the Constitution for all roles attracting a special responsibility allowance, in accordance with recognised best practice.

## **Anti-Fraud and Corruption Strategy and Whistleblowing Procedure**

The Head of Internal Audit presented the revised Anti-Fraud and Corruption Strategy and the Whistleblowing Policy in January 2007, to take account of changes in legislation and ensure best practice. Following consultation, the revised policies were reported back to the Committee in July 2007 and formally approved. It was agreed at that time that these arrangements would be reviewed again in a year's time.

### ***Monitoring of Whistleblowing Complaints***

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

During 2007/08, the Committee was notified of six new complaints, and informed of the progress of investigation, and where appropriate resolution, of these and the three complaints carried forward from 2006/07. The Committee reviewed a complete summary of complaints received and a summary of the outcome of cases from 2006/07 and 2007/08 at its meeting in January 2008. The Committee were pleased to note that there had been a steady stream of complaints received from a variety of sources including officers, members and the public, showing that there was wide awareness of the whistleblowing policy and that the procedure was working effectively.

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

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

The quality of the 'anti-fraud and corruption' work carried out by the Council, including the monitoring role of Standards Committee, was recognised by the Audit Commission in the assessment in March 2008 of the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources. The Council was given a top score in this area and assessed as operating at well above minimum requirements and performing strongly.

## **Ethical Audit**

At the meeting in July 2007, the Committee reviewed and updated the Ethical Desktop Audit. The Committee had first carried out a desktop audit of the authority and local parishes in July 2005, based on criteria set out in an Ethical Audit Toolkit prepared by the IDeA (Improvement and Development Agency). This provides a checklist of actions which the Council and parishes can be judged to operate with good governance. The Committee had previously reviewed and updated the Matrix and agreed an Action Plan in March 2007 and the meeting in July provided an opportunity to review the progress of those actions.

It is anticipated that the Committee will continue to review and update the Ethical Audit Matrix and action plan during 2008/09.

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

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

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

In addition, the Monitoring Officer and Vice-Chair and Parish Council Representative attended a Standards Board Roadshow held in Swindon during June 2007.

Key issues highlighted by the Standards Board during the year have included: -

- ✶ **A summary of the major changes in the new Code of Conduct** - With actions for Councils in adopting the new Code and a specific focus on the disclosure of confidential information.



- ⌘ **Information on how the Standards Board have determined Code of Conduct Complaints** – including the Case Review for 2007, the Annual Review of 2006-7 and an exploration of findings of no further action.
- ⌘ **Information on the preparations for new Standards Committee powers** including information on the consultation on new regulations and orders, a summary of the findings from the pilots, and a checklist for local authorities in the run up to April 2008 and adoption on new local filtering.
- ⌘ **Audit Commission review** of Councils that identified where Councils need to take stronger action in relation to ethical governance.
- ⌘ **Information on changes to the Standards Board** - Including the abolition of Independent Adjudicator giving a new role to Standards Committees to grant dispensations to staff to engage in political activities, and introduction to the Standards Board's new Chief Executive.

## **Code of Corporate Governance and Annual Governance Statement**

In January 2008, the Committee alongside the Audit Committee were consulted on the production of a Council Code of Corporate Governance based on a new CIPFA / SOLACE Model and on the production of the statutory Annual Governance Statement, which replaced the Statement of Internal control.

The Director of Law and Democratic Services and the Head of Internal Audit had been asked by the Corporate Governance Working Group to review the existing governance arrangements against the Corporate Governance Framework and to develop a Local Code of Governance, including arrangements for its ongoing application and effectiveness.

The Standards Committee welcomed the proposals which would be a public annual governance statement on how the Council monitors the effectiveness of its governance arrangements and any planned changes in the coming period.

It is intended that the Standards Committee will provide assurance to the Audit Committee as to the effective operation of the Council's ethical framework.

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

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

During the year, the Monitoring Officer has been notified of five complaints to the Standards Board, two related to Parish Councillors and three to Borough Councillors. Each case resulted in a decision by the Standards Board that the matter need not be investigated, one as a result of insufficient evidence and four on the basis that there was no potential breach identified.

From May 2008, such matters will be dealt with in the first instance by the local Standards Committee and only referred to the Standards Board for England for determination where there is the potential for a more serious breach of the Code of Conduct.

## **Parish Councils**

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

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

The Committee noted in the Standards Board Bulletin 35 (September 2007) that just under half of all complaints received across of the country related to Parish or Town Councils, but that 80% of Town and Parish Councils had not been the subject of a Code of Conduct complaint. The later proportion was broadly reflected in the Swindon borough and was welcomed. However, it was felt that the Standards Committee should seek assurance from parish councils in the Swindon area that they were fully conversant with the requirements of the new Code of Conduct and were receiving the level of support required from the Standards Committee and the Monitoring Officer.

In order to do this, Mr Mike Compton has began a series of visits to all the Parish Councils in the area. At each visit, Mr Compton has given a brief introduction to the work of the Standards Committee, discussed with Parishes how they are managing with the implementation of the New Code of Conduct and asked if they have any issues or concerns to raise, or wish for additional support from the Standards Committee or Monitoring Officer.

During 2007/08 Mr Compton has visited six local Parish Councils and reported back that appropriate arrangements are in place, and establish a good links to the Borough Standards Committee. Visits to the remaining Parish Councils are planned to take place during 2008/09.

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

Two complaints under the Member / Officer Protocol have been notified to the Committee by the Monitoring Officer during 2007/08. In each case, the Monitoring Officer, together with the Chair of the Committee and where appropriate the Group Leader for the Member concerned, have met with the relevant Councillors to discuss the alleged conduct, to understand the circumstances surrounding the complaint, and if appropriate provide training and arrange redress, such as by written apology.

## **Complaints on Ethical Standards**

The Council monitors complaints received from members of the public in relation to its operation and decision-making. No complaints were received during the 2007/2008 Municipal Year that related to the ethical standards of the authority.

## **Independent Members Network**

The Independent Members Network Forum for Wiltshire, Oxfordshire and Berkshire was first convened in October 2004, and has met on a bi-annual basis since then, including meetings in October 2007 and February 2008.

The independent members who have attended have found the forum to be valuable in sharing experience with other lay members and promoting best practice. Mr Trevor Davies has been appointed to represent the Forum on the national Independent Member Forum Co-ordinator's Meetings, convened by the Standards Board for England.

## **Declarations of Interest**

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

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

## **SUMMARY**

The Standards Committee has had a busy year and has continued to promote and monitor ethical standards in the authority and with local parish Councils. The adoption of the New Model Code of Conduct for Members, a review of the range of Codes and Protocols and of the Anti-Fraud and Corruption Strategy and Whistleblowing Policy are key highlights.

In addition, the Committee has begun to prepare itself for the new role of consideration of Code of Conduct complaints locally.

The Committee has continued to take a robust role in actively promoting and enhancing the Council's openness, accountability and probity and will continue to do so in the coming year.

There have been relatively few instances of impropriety during 2007/08, demonstrated by the fact that the Monitoring Officer and Committee have not been called upon to conduct a local Code of Conduct investigation and hearing since March 2007. Where informal complaints have been raised under the Member / Officer protocol these have been dealt with swiftly through discussions of the relevant Member with the Monitoring Officer and Chair. The whistleblowing scheme continues to operate well, and this has been demonstrated by the steady reporting of potential incidents throughout the year and investigation by Internal Audit.

The coming year is anticipated to be just as busy, with the Committee organising itself to take up its new powers in relation to local filtering of complaints and on consideration of appeals regarding politically restricted posts. The Committee will be seeking to hold a conference with the Council's partners to begin a conversation about working in partnership in terms of standards, probity and governance, and will continue to monitor its own arrangements and to support Parish Councils to operate best practice.

**Standards Committee**  
**Draft Work Programme for 2008 / 2009**

The following work programme is proposed:

<u>Meeting</u>	<u>Agenda Item</u>
14 July 2007	<ul style="list-style-type: none"> <li>• Agree Procedures for Local Consideration of Code of Conduct Complaints</li> <li>• Begin review of Anti-Fraud Strategy and Whistleblowing Policy.</li> <li>• Consider draft Annual Report for 2007/08</li> <li>• Agree future Work Programme</li> </ul>
13 <sup>th</sup> -14 <sup>th</sup> October 2008	Standards Board Annual Assembly
September or November 2008 (TBA)	Swindon Standards Conference
20 October 2008	<ul style="list-style-type: none"> <li>• Update Council's Ethical Audit self assessment</li> <li>• Adoption of revised Anti-Fraud Strategy and Whistleblowing Policy following consultation.</li> </ul>
19 January 2009	<ul style="list-style-type: none"> <li>• Consideration of any further regulations arising from the Local Government and Public Involvement in Health Act 2007</li> <li>• Review of any ethical governance arrangements as required related to Connecting People, Connecting Places.</li> <li>• Review of Local Code of Corporate Governance</li> <li>• Consideration of Annual Governance Statement</li> </ul>
30 March 2009	
Regular Items:	<ul style="list-style-type: none"> <li>• Ethical Update Report</li> <li>• Monitor complaints under the Council's Anti-Fraud and Corruption Strategy and Whistleblowing Policy.</li> <li>• Receive updates on complaints against Councillors.</li> <li>• Receive updates on continuing close work with Parish Councils on Ethical Framework Issues.</li> <li>• Facilitate training as required for Officers, Councillors and Parish Councillors in respect of ethical framework issues.</li> </ul>
Other reports and Meetings as required:	<ul style="list-style-type: none"> <li>• Consideration of Code of Conduct Complaints.</li> <li>• Requests for dispensations or review of politically restricted posts.</li> <li>• Urgent ethical and probity issues as they arise.</li> <li>• Responding to Government Guidance, Regulations and Consultations as issued.</li> </ul>

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## Agenda Item 9

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

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