

## Swindon Borough Council

# Standards Committee

**Monday, 20 October 2008**

Committee Room 1, Civic Offices  
(Anticipated meeting room)

**At 5.00 p.m.**

### Councillors

Melanie Duff  
Peter Stoddart  
(Conservative)

Maurice Fanning  
Fay Howard  
(Labour)

### Independent Members

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

### Parish Representative

Mr Martyn Cook  
Mr Mike Compton

**(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**

### **PART 1 (PUBLIC ITEMS)**

**1. Apologies for Absence**

**2. Declarations of Interest**

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

**3. Minutes (Pages 1 - 4)**

To receive the minutes of the meeting held on 14<sup>th</sup> July 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>6</b>	<b>1 and 2</b>

## **6. Ethical Framework Update (DLDS-B) (Pages 5 - 82)**

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

## **7. Ethical Framework Compliance Update (DLDS-B) (Pages 83 - 86)**

10 October 2008 (being date of agenda despatch)

### **Key:**

DLDS- B - Director of Law and Democratic Services

**Public Question Time** - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

**Access Arrangements** - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

### **Standards Committee - Terms of Reference**

The Standards Committee has the following roles and functions in accordance with Article 9 of the Council's Constitution:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of

Conduct;

- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England, 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 JULY 2008**

PRESENT:- Mr Keith Carby (Chair), Mr Trevor Davies (Vice-Chair), Mr Paul Morris, Mr David Dawson, Mr Mike Compton, Mr Martyn Cook, Councillor Peter Stoddart and Councillor Maurice Fanning.

Apologies for absence were received from Councillor Melanie Duff and Councillor Fay Howard.

### **1. 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.

### **2. Minutes**

Resolved that - The minutes of the meeting held on 14<sup>th</sup> April 2008, be confirmed and signed as a correct record.

### **3. Public Question Time**

No public questions were received during the meeting.

### **4. Exempt Items - Exclusion of Press and Public**

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

### **5. Local Assessment of Standards Complaints**

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) to advise the Committee of the coming into force of the Standards Committee (England) Regulations 2008 on 8<sup>th</sup> May 2008, and related guidance issued by the Standards Board on the local assessment of complaints under the Members Code of Conduct, for the Committee to agree how they should be implemented.

Resolved 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 A to the minutes (as amended by the Committee to include the timescale in which the Sub-Committee should operate).

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 of Swindon Borough Council 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 B to the minutes (as amended by the Committee to include the timescale in which the Sub-Committee should operate).

3) The assessment criteria be adopted as set out at Appendix C to the minutes.

4) The Monitoring Officer be authorised, in consultation with the Chair, to notify Members of 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.

8) The Monitoring Officer amend the 'Information for Potential Complainants' to clarify that the process is not for complaints about paid employees, and the Monitoring Officer provide feedback from the Committee to the Director of Partnership, Policy and Communications to be considered as part of the review of the Corporate Equalities Monitoring Forum, on the need for the form to be comparable to other authorities.

## **6. 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 Strategy and Whistleblowing Policy - The Committee reviewed the strategy and policy as part of an annual review of their operation and agreed for the documents to go out to consultation.

b) Swindon Standards Committee - The Committee considered a proposal for a standards conference and agreed that this should take place in November 2008 or January 2009, should be held at Steam or King Edward Place, and agreed an additional outcome for ongoing workshop(s) to progress outcomes identified in the conference.

c) Annual Governance Statement and Local Code of Corporate Governance - The Committee reviewed the Codes and Statement adopted by the Audit Committee on behalf of the Council, and noted the where the contribution of the Standards Committee was recognised.

d) Parish Councils - Mr Mike Compton confirmed that he had now visited nine Parish Councils with the Swindon Area to discuss the implementation of the Code of Conduct and to ask if additional assistance was required. Mike Compton confirmed that as a general rule, standards within Parish Councils were good, and there was an awareness of the Code of Conduct and its implementation. It was noted that Wanborough, Bishopstone and Liddington Parish Councils had expressed an interest in additional training, and the Monitoring Officer would contact the relevant parish councils to arrange this.

e) Register of Interests and Training - The Committee received assurances

that newly elected Members had completed acceptance of office forms and register of interest forms, and details of the ethical training that had taken place with members since the election in May 2008.

f) Standards Board Publications - The Committee noted the Standards Board Bulletins April 2008 (Issue 38) and June 2008 (Issue 39).

i) Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members Forum - The Committee noted that the next Forum would be held on 26<sup>th</sup> September.

j) Seventh Annual Assembly of Standards Committees - The Committee noted that Trevor Davies and the Monitoring Officer would be attending the assembly on 13<sup>th</sup> -14<sup>th</sup> October on behalf of the Committee.

Resolved that - 1) The Ethical Framework update be noted.

2) The Monitoring Officer and Head of Internal Audit consult on the 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.

3) The Committee supports the draft proposal for a Standards Conference during 2008/09 (amended as set out at b) above) and this be forwarded to the Swindon Strategic Partnership Board for discussion and the Monitoring Officer be authorised to be make appropriate arrangements for the Conference.

4) The Annual Governance Statement and the local Code of Corporate Governance be noted.

## **7. Annual Report and Work Programme Report**

The Committee considered a report of the Law and Democratic Services Officer (Monitoring Officer) asking the Committee to agree its Annual Report for 2007/08 and Work Programme for 2008/09.

Resolved that - 1) The Annual Report for 2007/08 be approved, subject to the inclusion of an introduction from the Chair and any further amendments advised by Committee Members to the Monitoring Officer, and it be forwarded to Full Council for information.

2) The Work Programme for 2008/09 be approved.

## **8. Ethical Framework Compliance Update**

The Committee considered a report of the Law and Democratic Services Officer (Monitoring Officer) and the Head of Internal Audit concerning the progress and outcomes in relation to various ethical framework compliance matters which included an update on five ongoing whistleblowing complaints. It was noted that there were no formal Member / Officer protocol complaints, although an informal issue had led to an apology being provided by a Member. The Committee noted that three complaints received by the Standards Board had not proceeded to investigation.

Resolved that - The Ethical Framework Compliance report be noted.

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## Ethical Framework Update

Standards Committee

Date: 20 October 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 Committee determines how it wishes to respond to the DCLG Consultation Paper on a revised Code of Conduct for local authority members and the introduction of a model code of conduct for local authority employees, and whether it wishes to hold a special meeting to respond formally, or to authorise the Monitoring Officer to respond on its behalf in consultation with the Chair.
- That the Committee determine any amendments or actions arising from the Desktop Ethical Audit.

## 1. Reasons

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

## 2. Detail

*Communities in control: real people, real power: Codes of conduct for local authority members and employees*

- 2.1 Attached at Appendix '1' is the Consultation on Codes of Conduct for Local Authority Members and Employees issued by the Department of Communities and Local Government (DCLG) on 1<sup>st</sup> October 2008. A response is required by 24<sup>th</sup> December, prior to the next scheduled meeting of the Committee. The timing of receipt of this paper has not permitted a full report on the consultation to be prepared.
- 2.2 The Consultation Paper includes proposed revisions to the Members Code of Conduct and seeks comments on the introduction of a requirement for authorities to incorporate a code of conduct for employees, based on a statutory model code of conduct, into the terms and conditions of employment of their employees ("the employees code").
- 2.3 So far as the employees code is concerned, the Monitoring Officer is discussing with the Director of Human Resources and Change how this

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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: 20 October 2008

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should be dealt with and the Monitoring Officer will update members at the meeting.

- 2.4 The Committee is asked to consider if it wishes to convene a special meeting to consider the consultation paper in detail and respond formally to the consultation, or whether it wishes to delegate authority to the Monitoring Officer to respond, in consultation with the Chair.

### *Desktop Ethical Audit*

- 2.5 Since January 2005, the Committee has carried out a regular desktop ethical audit of the Council against the criteria set out in an Ethical Audit Toolkit prepared by the IDeA (Improvement and Development Agency), to demonstrate compliance with all the elements required for the ethical framework and that all the necessary processes and procedures are in place.
- 2.6 The Ethical Audit Matrix has been updated with actions carried out since its last review in July 2007, and is attached at Appendix '2'. The Committee is invited to identify any key areas for action and review.
- 2.7 The IDeA in conjunction with the Standards Board and Audit Commission have recently updated the ethical governance toolkit, to reflect changes brought about by the Local Government and Public Involvement in Health Act 2007. This can be used as the basis of a formal review of the Council, at a number of different cost levels, including Peer Review. The Monitoring Officer has acted as a Peer Reviewer for two Councils during the last two years as part of this programme. The cost levels range from £1,800 for workshops, up to £15,000 for a complete review.
- 2.8 Attached at Appendix '3', are the new categories within the Ethical Audit Toolkit. The Committee is asked to determine if it wishes the Monitoring Officer to report back on any of these additional categories as part of an update of the Ethical Desktop Audit to a future meeting.
- 2.9 So far as a formal review under this new procedure is concerned, it is not recommended that this be undertaken at this time. Without wishing in any way to be complacent, so far as current compliance with the relevant elements of the IDeA toolkit are concerned, the Council achieved level 4 (the top category - 'well above minimum requirements – performing strongly') in its Use of Resources assessment last year for 'conduct and anti-fraud and corruption'. Hopefully, the Council will retain that level in the forthcoming assessment. Moreover, the Ethical Desktop Audit does not reveal any particular matters of concern, and there are regular reports to the Standards Committee on compliance with the various elements of the ethical framework, which indicates the necessary checks and balances

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# Ethical Framework Update

Standards Committee

Date: 20 October 2008

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are in place. If the Committee was minded to pursue an IDeA review, then this would need to be considered by Cabinet and Council when the 2009/10 budget is set.

## *National Fraud Initiative*

- 2.10 The Council is currently taking part in the Audit Commission's National Fraud Initiative, designed to prevent and detect fraud. The initiative involves comparing electronic data held by the council and other organisations including police authorities, local probation boards, NHS bodies and fire and rescue authorities.
- 2.11 The aim is to spot potentially fraudulent claims and payments or those made in error, which can then be investigated. Data from the following systems have been submitted: housing register, housing benefits, insurance, private care home residents, residents parking, blue badges and concessionary travel, licences, creditor payments, student loans and the Council's payroll.
- 2.12 The scheme has identified around £450million of fraud and overpayments nationally since 1996. More information can be obtained at: [www.audit-commission.gov.uk/nfi](http://www.audit-commission.gov.uk/nfi) or from the Head of Internal Audit.

## *Swindon Standards Conference*

- 2.13 At the last meeting the Committee supported the proposal for a conference to be held focused on 'Standards in Partnership'. The Monitoring Officer will give an update to the meeting on the matter.

## *Parish Councils*

- 2.14 Mike Compton has been visiting Parish Councils as discussed at a previous meetings 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. All 14 Parish Councils within the Swindon area have received a visit, with the exception of Castle Eaton, which is scheduled for November 2008. Mike Compton will report back to the Committee on the visits undertaken since the last meeting.

## *Standards Board Publications*

- 2.15 Attached at Appendix '4' is the Standards Board Bulletin for August 2008 (Issue 40). This focuses upon guidance on the local standards

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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: 20 October 2008

framework, an analysis of the first quarter of monitoring returns, information on new Standards Board members and information on the new IDeA Ethical Toolkit (see paragraph 2.5 above).

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

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

- 2.17 The last meeting of the Forum took place at Cherwell District Council on Friday 26<sup>th</sup> September. A copy of the formal minutes are attached at Appendix '5', together with notes of the meeting provided by Trevor Davies. Trevor Davies and David Dawson, who attended the meeting, are invited to report back on any matters of interest to the Committee.

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

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

## Alternative Options

- Alternative Options, where applicable, are set out above.

### **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

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: 20 October 2008

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## Background Papers and Appendices

- Appendix 1 – DCLG Consultation Paper on Members and Employees Codes of Conduct
- Appendix 2 – Updated Ethical Audit Matrix, October 2008
- Appendix 3 – Revised Ethical Audit Categories
- Appendix 4 – Standards Board Bulletin for August 2008 (Issue 40)
- Appendix 5 – Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum Minutes and Informal Notes – 26th September 2008

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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).

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Communities in control: Real people, real power  
Codes of conduct for local authority members and  
employees

**A consultation**

Communities in control: Real people, real power  
Codes of conduct for local authority members and  
employees

**A consultation**



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# Chapter 1: The consultation and how to respond

## Communities in control consultation papers

- 1.1 The White Paper, *Communities in control: Real people, real power*, is about passing power into the hands of local communities. It sets out a range of policies to achieve this, building on work still in progress from the 2006 White Paper, *Strong and Prosperous Communities*.
- 1.2 This paper is the next in a series consulting on a number of policy commitments. Future consultation papers include a consultation on proposals to revise the code of recommended practice on local authority publicity, which is due to be published at the end of October. This paper invites views on proposals for revising the model code of conduct for local authority members ("the members' code"), principally to clarify its application to members' conduct in their non-official capacity. This paper also invites views on proposals for associated changes to the Relevant Authorities (General Principles) Order 2001 which sets out the general principles which govern the conduct of local authority members. Finally, it seeks comments on proposals to introduce a requirement for authorities to incorporate a code of conduct for employees, based on a statutory model code of conduct, in to the terms and conditions of employment of their employees' ("the employees' code").

## About this consultation

- 1.3 The proposals in this consultation paper relate to relevant authorities in England and police authorities in Wales.
- 1.4 Following the local government White Paper, *Strong and Prosperous Communities*, issued in October 2006, the Local Government and Public Involvement in Health Act 2007 established a more locally-based conduct regime for local authority members centred on local authority standards committees. Under the new devolved regime, the Standards Board for England has become a light-touch strategic regulator, responsible for monitoring the operation of the conduct regime and giving support and guidance to standards committees and monitoring officers in discharging their new functions.
- 1.5 As part of the changes to the conduct regime, a new model code of conduct for local authority members, the Local Authorities (Model Code of Conduct) Order 2007, was introduced with effect from May

2007, on the basis that the provisions of the members' code would be reviewed in light of early experience of its practical operation.

- 1.6 Chapter 2 of this paper seeks views on proposals to clarify the members' code in its application to members' conduct when acting in a non-official capacity. It also seeks views on the operation of, and proposed revisions to, the members' code, including reconfiguring the members' code into two distinct sections, the first dealing with members' conduct in their official capacity, the second dealing with members' conduct in their non-official capacity. Finally, it seeks views on associated amendments to the Relevant Authorities (General Principles) Order 2001 to clarify its application to members' conduct in their non-official capacity.
- 1.7 Chapter 3 of this paper seeks views on the proposed introduction of a model code of conduct for local government employees, which will become part of such employees' terms and conditions of employment.
- 1.8 Particular questions on which we would welcome comments are set out in each chapter and summarised in **Annex A**. In order to aid your consideration of the proposed amendments to the current members' code, the substance of the 2007 code is reproduced at **Annex B**.
- 1.9 We are minded, subject to responses to this consultation, to implement the proposals in this consultation paper, so that they come into effect in line with the local government elections 2009.

## Who are we consulting?

- 1.10 This is a public consultation and it is open to anyone to respond to this consultation document. We would, however, particularly welcome responses from local authority members, local authority monitoring officers, local government employees, national representative bodies, local government partners and trade unions. **The consultation period runs for 12 weeks to 24 December 2008.**

## How to respond

- 1.11 Your response must be received by 24 December 2008 and may be sent by e-mail or post to:

Karl Holden  
Conduct and Council Constitutions Team  
Communities and Local Government  
Zone 5/B2, Eland House  
Bressenden Place  
London  
SW1E 5DU

e-mail: [conductcode@communities.gsi.gov.uk](mailto:conductcode@communities.gsi.gov.uk)

If you are replying by e-mail please title your response 'Response to Model Code consultation'.

It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

## What will happen to the responses?

- 1.12 The Department will take account of the responses received to this consultation before taking decisions on the legislation that will form the revised members' code, the general principles order and the new employees' code.
- 1.13 Within three months of the close of the consultation period we will analyse the responses to the consultation and produce a summary of them. This summary will be published on the Department's website at [www.communities.gov.uk](http://www.communities.gov.uk)

## Publication of responses – confidentiality and data protection

- 1.14 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 1.15 If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- 1.16 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.17 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## The consultation criteria

- 1.18 The UK Government has adopted a code of practice on consultations. Please see **Annex C** of this document for the criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process.

## Additional copies

- 1.19 You may make copies of this document without seeking permission. If required, printed copies of the consultation paper can be obtained from Communities and Local Government Publications, whose contact details may be found at the front of this document. An electronic version can be found at the Consultation Section of the Department's website at: [www.communities.gov.uk](http://www.communities.gov.uk).

## In context – previous consultations and relevant legislation

- 1.20 The local government White Paper, *Strong and Prosperous Communities*, issued in October 2006, set out the Government's proposals to put in place a clearer, simpler and more proportionate model code of conduct for members which would include changes to the rules on personal and prejudicial interests. This announcement followed a consultation by the Standards Board for England, *A Code for the future*, in February 2005 and the Discussion Paper *Conduct in English Local Government*, issued by the then Office for the Deputy Prime Minister in December 2005.
- 1.21 The policy proposals took form in the January 2007 consultation document, *Consultation on Amendments to the Model Code of Conduct for Local Authority Members*, which proposed the combination of the four different model codes of conduct that existed at the time (for local authorities, parish councils, national parks and police authorities) into a single consolidated model code.
- 1.22 The Local Authorities (Model Code of Conduct) Order 2007 came into force on 3 May 2007. With the members' code now in place for over a year, we believe this is an appropriate time to examine how well it has functioned in practice and consider any revisions that may be required. The proposed amendments to the members' code set out in this paper reflect discussions with the Standards Board and, in particular, their experience of the practical operation of the 2007 members' code over the last year.
- 1.23 Following the 2006 local government White Paper and the introduction of the 2007 members' code, the Local Government and Public Involvement in Health Act 2007 made provision clarifying the law in

relation to the application of the conduct regime to the conduct of members in their non- official capacity. This paper therefore also invites comments on proposals to revise the members' code and the general principles order to address the issue of the application of the conduct regime to the conduct of members in their non-official capacity.

### Code of conduct for local government employees

- 1.24 In August 2004, the then Office of the Deputy Prime Minister issued the consultation paper, *A Model Code of Conduct for Local Government Employees*. The paper consulted on a draft code defining the minimum standards of conduct that employees of relevant authorities would be expected to observe on carrying out their duties. The 2004 consultation was followed by further inquiries and consultations on matters relating to the conduct regime for local government.
- 1.25 The Department restated its commitment to introduce a model employees' code, under Section 82 of the Local Government Act 2000, in the local government White Paper 2006. However, in light of the above inquiries and consultations, and the introduction of the 2007 members' code, it was decided that the implementation of an employees' code should be delayed until the Department had an opportunity to consider the employees' code in the context of the wider review of the conduct regime for local government and the lessons learned from the implementation of the new members' code.
- 1.26 With the implementation of the new devolved conduct regime and our proposals to amend the members' code, drawing on the experience of its first year of operation, we consider that the time is right to also consult on proposals to introduce a model employees' code.



# Chapter 2: Code of conduct for local authority members

## What is the code of conduct for?

- 2.1 The public has a right to expect high standards of conduct from their elected and co-opted members. The standards of conduct expected of local authority members are set out in the members' code, which is underpinned by the ten general principles. By signing up to the members' code, a member is actively taking on a formal obligation to abide by its requirements.
- 2.2 The members' code forms the bedrock of the conduct regime and aims to promote the public's trust and confidence in their members and faith in local democracy. It does this by providing a robust set of standards of behaviour for members to abide by and work within. In doing this, the code also protects members from unreasonable expectations of behaviour being put upon them. Since May 2008, allegations that a member has failed to comply with the provisions of the members' code are considered by local authority standards committees.
- 2.3 The current members' code is set out in the Local Authorities (Model Code of Conduct) Order 2007 which applies to members of relevant authorities in England and of police authorities in Wales. On its introduction, the Government gave an undertaking that the effectiveness of the code would be reviewed after it had been in operation for some time. We believe, drawing on the Standards Board's practical experience that the members' code is, broadly, operating very well. However, as it has been in force for over a year, we consider that it is now appropriate to review the code.
- 2.4 Most importantly, we propose that the members' code be restructured by revoking the existing Order and making a new one. We propose that the new members' code will be differently formatted to the existing code, making it easier to interpret and clearer in its application, for instance by dividing it into two sections: the first dealing with members' conduct when acting in an official capacity and reflecting what is in the current code, the second dealing with members' conduct in their non-official capacity.

## Application of the code to members' conduct in their non-official capacity

- 2.5 Trust in our local authority members is one of the cornerstones of local democracy. Members should inspire trust and confidence from those who elected them, set an example of leadership for their communities and should be expected to act lawfully even when they are not acting in their role as members.
- 2.6 This view was supported by those who responded to the Standards Board for England's consultation on the members' code in 2005. Responses indicated a clear view that a member's conduct in a non-official capacity was an issue that they considered should be covered by the members' code, particularly where that conduct amounts to a criminal offence.
- 2.7 It has always been our intention for the members' code to apply to a limited extent to the conduct of members in a non-official capacity. We wish now to clarify which provisions of the members' code apply in a member's official capacity and to put beyond doubt which provisions apply to a member's conduct in a non-official capacity.
- 2.8 The need to clarify what conduct in a member's non-official capacity is covered by the members' code arose as a consequence of a court judgment in 2006. This cast doubt on the ability of the code to cover members' conduct not linked to the performance of their public duties. As was made clear by Ministers during the passage of the Local Government and Public Involvement in Health Act 2007, we consider that certain behaviour, even when there is no direct link to the member's official role, can have an adverse effect on the level of public trust in local authority members and local government as a whole.
- 2.9 We propose therefore that the new members' code should, in the section covering the conduct of members in their non-official capacity, contain the following provision prohibiting particular conduct where that conduct would constitute a criminal offence:

"Members must not bring their office or authority into disrepute by conduct which is a criminal offence".

### Consultation Question 1:

Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

## Definition of 'criminal offence' and 'official capacity'

- 2.10 The Local Government and Public Involvement in Health Act 2007 gave the Secretary of State the power to define, for the purposes of the members' code, what constitutes a 'criminal offence'. We propose for the purpose of the members' code, that 'criminal offence' be defined as any criminal offence for which the member has been convicted in a criminal court, but for which the member does not have the opportunity of paying a fixed penalty instead of facing a criminal conviction.
- 2.11 Our intention is that offences capable of attracting fixed penalty notices should be excluded from the remit of the conduct regime. We consider that this approach will ensure that the most minor criminal offences, for example minor motoring offences, parking offences and dropping litter as well as cautions and orders falling short of a criminal conviction by a court, will not be included in the remit of the members' code. However, serious criminal offences which we consider should come under the remit of the members' code, such as assault, harassment, fraud and offences relating to child pornography will be included in the remit of the code.
- 2.12 We propose that the Standards Board for England will issue guidance for local authority standards committees on how a criminal offence should be treated in its application to the conduct regime.

### Consultation Question 2:

Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.

- 2.13 The Local Government and Public Involvement in Health Act 2007 also gave the Secretary of State power to define, for the purposes of the members' code, what constitutes 'official capacity'.
- 2.14 We propose that for the purposes of the members' code, 'official capacity' be defined as being engaged in the business of your authority, including the business of the office to which you are elected or appointed, or acting, claiming to act or giving the impression that you are acting as a representative of your authority.

### Consultation Question 3:

Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.

## Offending abroad

- 2.15 We also propose that the members' code would engage with conduct committed in a foreign country, where that conduct constitutes a criminal offence in that country, but only where the conduct would also constitute a criminal offence if it was committed in the UK. However, the code would only apply if the individual was convicted in the country in which the offence was committed.

### Consultation Question 4:

Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

## What does this mean?

- 2.16 Our proposals would have the effect of providing that the only conduct in a member's non-official capacity which is engaged by the code, is conduct which constitutes a criminal offence, as defined in paragraph 2.10 above. The code may only then be applied to that conduct when the evidence that the member's conduct constituted a criminal offence is provided by the criminal conviction of the member in the courts.
- 2.17 This would mean, for example, that a member who was convicted of a criminal offence of assault or harassment could be held to have breached the code, even if the conduct, which led to the conviction took place entirely outside the member's official capacity.

## Criminal conviction of a member

- 2.18 It should be noted that a criminal conviction resulting in a custodial sentence of more than three months without the option of paying a fine is already covered by section 80 of the Local Government Act 1972, with the member automatically disqualified from office for five years. We are not proposing any changes to this legislation.

## The conduct regime

- 2.19 At present, investigations into alleged breaches of the members' code are triggered by a written allegation made to the standards committee of the local authority concerned. We propose that this continue to be the case when dealing with allegations of misconduct in relation to a member's conduct in their non-official capacity.
- 2.20 Where the allegation involves criminal activity that is, at the time of the allegation being made, being investigated by the police or prosecuted through the courts, we propose that the standards committee or the

Standards Board, as the case may be, would cease their investigation process until the criminal process had been completed. Any subsequent action under the conduct regime in respect of a member's private conduct would follow the conclusion of the criminal procedure. The member would not be suspended during the period of the criminal process.

- 2.21 For the purpose of the conduct regime, the criminal process will be considered to have been completed at the conclusion of any appeals process.

#### Consultation Question 5:

Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

### Proposed revisions to the members' code

- 2.22 This consultation paper also seeks views on the following amendments which we propose to make to the provisions of the existing code. The proposed amendments reflect discussions with the Standards Board and, in particular, the Board's experience of the practical operation of the code over the last year.
- 2.23 In order to aid your consideration of our proposed amendments to the members' code, the substance of the present code is reproduced at **Annex B** to this paper. Guidance on the provisions of the members' code is available on the Standards Board for England's website at [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

#### Parish councils

- 2.24 It has been suggested that article 2(5) of the Local Authorities (Model Code of Conduct) Order 2007 be amended to apply paragraph 12(2) to parish councils, to make it mandatory for parish councils that a member with a prejudicial interest may make representations at a meeting only if members of the public are able to attend that meeting for the same purpose. Currently, if a parish council wishes this provision to apply, it must make a conscious decision to adopt paragraph 12(2) into its code. This amendment would save unnecessary administration and ensure consistency across parish councils.

#### Membership of other bodies

- 2.25 It has been suggested that paragraphs 8(1)(a)(i) and (ii) of the current members' code be amended to clarify that the sections are referring to other bodies that you are a member of or which exercise functions of a public nature, putting it beyond doubt that this is not a reference to the authority itself.

## Personal interests

- 2.26 It has been suggested that current wording of paragraph 8(1)(a) of the members' code could be amended to clarify that a member is required to register a gift or hospitality with an estimated value of at least £25 in his or her register of members' interests.

## Prejudicial interests

- 2.27 It has been suggested that paragraph 10(2) of the code be amended to remove the double negative in the current drafting, to make it clear that a prejudicial interest exists where the business of your authority affects your financial position or the financial position of a person listed in paragraph 8 of the code or it relates to the determining of any approval, consent, licence, permission or registration in relation to you or those persons listed in paragraph 8 of the code.
- 2.28 It has been suggested that the meaning of 'determining' in paragraph 10(2)(b) could be clarified to include variation, attaching, removing or amending conditions, waiving or revoking applications.
- 2.29 It has also been suggested that paragraph 10(2)(c) could be amended to clarify that a member would not have a prejudicial interest in the business of the authority where that business related to giving evidence before a local authority standards committee hearing regarding an allegation that a member of the authority had failed to comply with the code.

## Registration of members' interests

- 2.30 We propose that any new members' code would take into account any existing registration of members' interests. This will ensure that members who have already registered their interests in line with the 2007 model code do not have to repeat the process when the revised members' code is introduced.

### Consultation Question 6:

Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

### Consultation Question 7:

Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

### Consultation Question 8:

Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

## Legislative context

- 2.31 The current members' code is set out in the Schedule to the Local Authorities (Model Code of Conduct) Order 2007 made under powers conferred on the Secretary of State by section 50 of the Local Government Act 2000.
- 2.32 Section 183 of the Local Government and Public Involvement in Health Act 2007 inserted, into section 50 of the Local Government Act 2000, a requirement for the Secretary of State to specify which provisions of the members' code apply in relation to a member's conduct when acting in an official capacity and which provisions apply when not acting in an official capacity. A provision may only be specified to apply to members' conduct when not acting in an official capacity if the conduct it prohibits constitutes a criminal offence. The power in section 50 of the Local Government Act 2000 permits the Secretary of State to define for the purposes of the members' code what is meant by "criminal offence" and what is meant by "official capacity".
- 2.33 We propose that the existing Local Authorities (Model Code of Conduct) Order 2007 be revoked and a new, revised Order would be made to reflect our proposed amendments and that part of the code applies to a member's conduct in their official capacity and part of it would apply to a member's conduct in their non-official capacity.
- 2.34 Provision is also made in section 183 of the Local Government and Public Involvement in Health Act 2007 for members to give to their authority an undertaking to observe the new code within a period prescribed by the Secretary of State. We propose that members will have two months from the date their authority adopts the new code to give a written undertaking that they will observe their authority's code. Failure to do so will mean that they cease to be members of the authority.

### Consultation Question 9:

Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?

# Proposed amendments to the General Principles

## What are the General Principles?

- 2.35 The ten General Principles, contained in the Relevant Authorities (General Principles) Order 2001, are based on the seven principles of public life set out by the Committee on Standards in Public Life. The principles underpin the provisions of the members' code, which must be consistent with these principles.
- 2.36 The ten general principles are reproduced below. The principles govern the conduct of members, and a failure to act in accordance with them may lead to a failure to comply with the members' code.

### The General Principles

#### *Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

#### *Honesty and Integrity*

2. Members should not place themselves in a situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### *Objectivity*

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

#### *Accountability*

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

#### *Openness*

5. Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.



### *Personal Judgement*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### *Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### *Duty to uphold the law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### *Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

### *Leadership*

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## Proposed revisions

2.37 We propose that the Relevant Authorities (General Principles) Order 2001 be amended to make clear which principles govern the conduct of members when acting in an official capacity and which principles will apply to the conduct of members when acting in a non-official capacity, where the member's conduct would constitute a criminal offence.

2.38 We propose that the General Principles Order be amended by providing that the 10 existing principles apply to a member when acting in an official capacity and by adding a new principle which would be specified as applying to a member acting in a non-official capacity, where the member's conduct would constitute a criminal offence. We propose that the following be added to the Schedule of the Relevant Authorities (General Principles) Order 2001:

### *Duty to abide by the law*

Members should not engage in conduct which constitutes a criminal offence.

**Consultation Question 10:**

Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

## Definition of 'criminal offence' and 'official capacity'

2.39 Section 49 of the Local Government Act 2000 enables the Secretary of State to define what constitutes a 'criminal offence' and what constitutes 'official capacity' in the context of the General Principles Order. For the purposes of the revised General Principles Order, we propose that 'criminal offence' be defined as any conduct that has resulted in a criminal conviction.

**Consultation Question 11:**

Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?

2.40 We propose that for the purposes of the revised General Principles Order, 'official capacity' be defined as "being engaged in the business of your authority, including the business of the office to which you are elected or appointed, or acting, claiming to act or giving the impression that you are acting as a representative of your authority".

**Consultation Question 12:**

Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

## Legislative Context

2.41 The Relevant Authorities (General Principles) Order 2001 was made under powers conferred on the Secretary of State in section 49 and 105 of the Local Government Act 2000. Section 183 of the Local Government and Public Involvement in Health Act 2007 modified section 49 of the 2000 Act and it is this modification that requires the Secretary of State to specify which general principles apply to a person when acting in an official capacity and when acting in an non-official capacity.

## Chapter 3: Model code of conduct for local government employees

### Is an employees' code needed?

- 3.1 A code of conduct for local government employees ("employees' code") should provide the staff of an authority with an effective ethical framework within which to work and it should give that authority's citizens confidence that an authority's staff are working on their behalf in an appropriate manner.

#### **Consultation Question 13:**

Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?

### The employees' code in context

- 3.2 In August 2004, the (then) Office of the Deputy Prime Minister consulted on a model code of conduct for local government employees. Responses indicated that the model code of conduct consulted on was not adequate, but also that the universal application of a code to all staff would be needlessly bureaucratic as all employees would be subject to the same code regardless of their position. There was support for following the model of the Welsh code of conduct, which only applies to a certain category of defined senior officer. Alternatively, the code could be restricted to those who exercise executive, regulatory or overview and scrutiny powers under the authority's scheme of delegation to officers.
- 3.3 Another view in response to the consultation paper was that certain aspects of the code (eg registration of interests), could be limited to senior officers while other more universal aspects should be applicable to all - for instance, it is beyond question that all employees should behave with honesty and integrity.
- 3.4 Many local authorities already have a code of conduct for employees in addition to, or part of, their standard terms and conditions of employment. These codes range from simple statements agreeing to act with propriety to comprehensive documents covering everything

from political neutrality to intellectual property matters. These codes of conduct are also integrated into the authority's discipline procedures.

- 3.5 It is not intended that the employees' code be a burden on authorities or employees. The code should not constrain an authority's ability to develop its own code reflecting local needs and conditions. We consider that authorities should be free to adopt supplementary provisions beyond the employees' code in order to provide their staff with an effective ethical framework within which to work.

## Application of the employees' code

- 3.6 We propose that the employees' code would apply to all relevant authorities and police authorities in Wales, as defined in Section 49 of the Local Government Act 2000. We are proposing that a model employees' code - a model code that authorities may augment if they wish - be introduced, which will be incorporated into local government employees' terms and conditions of employment.
- 3.7 However, we do not propose to apply the employees' code where it is not needed, for instance to employees in professions that are covered by their own code of conduct; firefighters, teachers, community support officers, solicitors etc.

### Consultation Question 14:

Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?

### Consultation Question 15:

Are there any other categories of employee in respect of whom it is not necessary to apply the code?

- 3.8 We propose a two-tier model. The first tier, drawing on the Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001, will apply equally to all authority employees and will enshrine the core values that it is reasonably expected every authority employee would abide by. The second tier, drawing on the members' code, will apply to 'qualifying employees', that is; either senior officials or those officials carrying out delegated functions.
- 3.9 With the members' code in place, and members having to abide by that code, there is a reasonable expectation that officials undertaking functions delegated to them by members would have to abide by the same conduct regime as members when performing those functions.

## Proposed core values

### **The model employees' code: core values for all employees**

#### **General principles**

The public is entitled to expect the highest standards of conduct from all local government employees. The role of such employees is to serve their employing authority in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

#### **Accountability**

Employees are accountable, and owe a duty to, their employing authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

#### **Political neutrality**

Employees, excluding political assistants, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities.

#### **Relations with members, the public and other employees**

Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. Employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently and without bias.

#### **Equality**

Employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

#### **Stewardship**

Employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

#### **Personal interests**

An employee must not allow their private interests or beliefs to conflict with their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

Employees should abide by the rules of their authority about the declaration of gifts offered to or received by them from any person or body seeking to

do business with the authority or which would benefit from a relationship with that authority. Employees should not accept benefits from a third party unless authorised to do so by their authority.

### Whistleblowing

Where an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with the model code of conduct for employees, the employee should report the matter, acting in accordance with the employees rights under the Public Interest Disclosure Act 1998 and with the authority's confidential reporting procedure or any other procedure designed for this purpose.

### Treatment of Information

Openness in the dissemination of information and decision making should be the norm in authorities. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

### Appointment of staff

Employees of the authority, when involved in the recruitment and appointment of staff, must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, those employees must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related or with whom they have a close personal relationship outside work.

### Investigations by monitoring officers

Where a monitoring officer is undertaking an investigation in accordance with Part III of the Local Government Act 2000 and associated regulations, employees must comply with any requirement made by that monitoring officer in connection with such an investigation.

#### Consultation Question 16:

Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

## Beyond the core values

### Who are the 'qualifying employees'?

- 3.10 There are two alternatives for selecting those 'qualifying employees' to which, in addition to the core values of the employees' code, some of the restrictions and expectations of the members' code should apply.
- 3.11 The first is based on the approach taken to determining which posts in an authority are 'politically restricted' under section 3 of the Local Government and Housing Act 1989, and assumes that certain posts are senior or influential enough to warrant controls placed on the activities of postholders. Certain posts would be designated as qualifying employees.
- 3.12 The second is the delegation model, which would see qualifying employees selected on the basis that they perform functions delegated to them by elected members under section 101 of the Local Government Act 1972.

#### Consultation Question 17:

Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?

## The model employees' code: values for qualifying employees

### Compromising the impartiality of officers of the authority

A qualifying employee must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the authority, either directly or as a response to pressure from others. A qualifying employee should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.

### Using your position improperly

A qualifying employee must not use, or attempt to use, their position improperly either for their or anybody else's advantage or disadvantage.

### Considering advice provided to you and giving reasons

If a qualifying employee seeks advice, or advice is offered to them, on aspects of how the employees' code applies, the qualifying employee must have regard to this advice.

### Personal interest

Qualifying employees must register, within 28 days of taking up their appointment, any interests set out in the categories below. This record of interest must be in writing, to the authority's monitoring officer or, in the case of a parish council, through the parish clerk.

The registration of interests protects the qualifying employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the qualifying employee is acting transparently. Only registration of personal interests in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required.

These are:

- Your membership, or position of control or management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- Any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100<sup>th</sup> of the value or share capital of the company.
- Any contracts between the authority and any company you have an interest in, as above.
- Any land or property in the authority's area in which you have a beneficial interest.

A qualifying employee may seek to exempt their personal interests from the register of interests if they consider, for instance that having this information on record might put themselves or others at risk. In such cases, the qualifying employee should discuss the matter with their monitoring officer.

#### **Consultation Question 18:**

Should the code contain a requirement for qualifying employees to publicly register any interests?

#### **Consultation Question 19:**

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

### **Prejudicial interest**

A prejudicial interest is considered to be a matter which affects the qualifying employee's financial interest or relates to a licensing or regulatory matter in which he or she has an interest and where a member of the public, who knows the relevant facts, would reasonably think that his or her personal interest is so significant that it is likely to prejudice his or her judgement of the public interest.

A prejudicial interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where for instance approval for a licence may affect a body with which the qualifying employee has a personal interest or will affect him or her personally.



Qualifying employees with a prejudicial interest should declare such an interest. Where possible, they should take steps to avoid influential involvement in the matter. Where this is not possible, their prejudicial interest should be made clear.

**Consultation Question 20:**

Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code. Have any been omitted?

**Consultation Question 21:**

Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

## Contractors, partners and part time staff

3.13 Local authorities have an increasingly complex relationship with the private sector in its work with contractors, partners and part time staff. We consider that rather than attempt to determine centrally when and when not to apply the employees' code not just to local government employees, but those working on behalf of local government, it will be for local authorities themselves to decide, in agreeing contracts, partnership agreements or terms and conditions of employment, if and how the employees' code, in whole or in part, should apply.

## Parish councils

3.14 The members' code applies to parish councillors as well as members of larger authorities, and it seems reasonable therefore for the ethical framework of the employees' code to apply to parish council employees. We recognise that the environment that parish councillors operate within is different to that of larger authorities and are conscious that what is consider to be a reasonable expectation in the employees' code for larger councils, may prove to be difficult for parish councils.

3.15 That being the case, we would welcome responses from parish councils on any particular aspect of the employees' code that might present difficulties and how those difficulties could be overcome.

**Consultation Question 22:**

Should the employees' code extend to employees of parish councils?

## Legislative context

- 3.16 Section 82(7) of the Local Government Act 2000, provides that the provisions of a code made under section 82(1) of that Act will be deemed to be incorporated in employees' terms and conditions of employment.

# Annex A: List of consultation questions

## Chapter 2: Code of conduct for local authority members

- |             |  |
|-------------|--|
| Question 1  | Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?   |
| Question 2  | Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.                                  |
| Question 3  | Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.   |
| Question 4  | Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?  |
| Question 5  | Do you agree that an ethical investigation should not proceed until the criminal process has been completed?   |
| Question 6  | Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?                  |
| Question 7  | Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?  |
| Question 8  | Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.  |
| Question 9  | Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code? |
| Question 10 | Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?   |

- Question 11 Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?
- Question 12 Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

## Chapter 3 Model Code of Conduct for local authority employees

- Question 13 Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?
- Question 14 Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?
- Question 15 Are there any other categories of employee in respect of whom it is not necessary to apply the code?
- Question 16 Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?
- Question 17 Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?
- Question 18 Should the code contain a requirement for qualifying employees to publicly register any interests?
- Question 19 Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?
- Question 20 Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code? Have any been omitted?
- Question 21 Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?
- Question 22 Should the employees' code extend to employees of parish councils?

# Annex B

## SCHEDULE

### THE MODEL CODE OF CONDUCT

#### Part 1

#### General provisions

#### **Introduction and interpretation**

1.—(1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State.

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

“meeting” means any meeting of—

(a)

the authority;

(b)

the executive of the authority;

(c)

any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

#### **Scope**

2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

**3.—**(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

**4.** You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7.—(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2 Interests

### Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a

firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

**9.—**(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests,



you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

**10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority’s executive or another of your authority’s committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

**12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### Part 3

#### Registration of Members' Interests

##### **Registration of members' interests**

**13.**—(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

##### **Sensitive information**

**14.**—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

# Annex C: Consultation Code of Practice

- A.1 The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
- A.2 Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies; unless Ministers conclude that exceptional circumstances require a departure.

## The Consultation Criteria

- Consult widely throughout the process, allowing a minimum of
  - 12 weeks for written consultation at least once during the development of the policy
  - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
  - Ensure that your consultation is clear, concise and widely accessible.
  - Give feedback regarding the responses received and how the consultation process influenced the policy.
  - Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
  - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
- A.3 The full consultation code of practice may be viewed at: [www.bre.berr.gov.uk/regulation/consultation/code/index.asp](http://www.bre.berr.gov.uk/regulation/consultation/code/index.asp).

A.4 Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Consultation Co-ordinator  
Communities and Local Government  
Zone 6/H10  
Eland House  
Bressenden Place  
London  
SW1E 5DU

email: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)

Ethical Audit Desktop Analysis  
Matrix of Key Information held by Swindon Borough Council  
October 2008

	<b>Key Information</b>	<b>Held</b>	<b>Current position, including action taken since the last review on 19<sup>th</sup> March 2008.</b>	<b>Area of Review or Action to be identified by the Standards Committee.</b>
1	Constitutions/ Current Decision Making Framework (ie the committees and sub-committees)	Yes	<p>The Constitution is reviewed and updated at least annually and was last updated May 2008. Changes in particular related to the new Council Scrutiny structure, new councillor role definitions, and updated protocols and codes of conduct resulting from the revised Members Code of Conduct. Its operation is monitored by the Monitoring Officer and also by the Corporate Governance Working Party whose recommendations feed into the review process.</p> <p>The Constitution was considered fit for purpose, up-to-date and well-communicated by the 2004 CGI report, although not well-developed in relation to scrutiny function. The 2006 Corporate Assessment concluded that "Scrutiny is now well run and challenging, and contributes to service improvement via a clear role in performance management". The Council's Use of Resources score for 'conduct and anti-fraud and corruption' was assessed at level 4 (top category - 'well above minimum requirements – performing strongly') in the 2007/08 CPA. An Audit Committee was established in May 2006 and receives assurances from the Standards Committee in relation to matters of internal control such as the operation of the Whistleblowing Policy.</p> <p>As the Council is increasingly working with external partners and stakeholders, consideration needs to be given as to whether a Code of Conduct applicable to</p>	

			such partnerships should be drawn up. In order to share learning and experiences with our stakeholders and external partners, the Standards Committee has agreed to hold a Standards Conference during 2008/09 at which such matters can be explored.	
2	Procedural Standing Orders	Yes	Updated in Constitution – May 2008	
3	Contracts Standing Orders	Yes	Updated in Constitution – May 2008	
4	Employees' Code Of Conduct	Yes	Following consultation with Council employees and unions, the Employee Code of Conduct was approved by the Standards Committee in July 2006. The Code of Conduct has been issued to all Council employees, who are required to sign to confirm that they have read and will act in accordance with the Code.	
5	Members' Code Of Conduct plus Local Guidance	Yes	<p>The original Members Code of Conduct was adopted by the Council in May 2002 and a revised Code of Conduct was adopted in May 2007.</p> <p>The Monitoring Officer has provided guidance and training to Officers and Members, together with Parish Clerks and Parish Councillors, on the new Code.</p>	.
6	Confidential Reporting Procedure	Yes	<p>The Whistleblowing Policy was first approved in November 2001 and revised in July 2007. It is currently being reviewed. Complaints received are investigated and the outcome reported to the Standards Committee. Employees are reminded about the procedure via staff communications, including in the Core Brief.</p> <p>The Committee approved in September 2005, the renewal of the Council's subscription to the Public Concern at Work Helpline up to January 2009, to provide a formal method of confidential reporting for staff who do not feel able to raise issues directly with the Council.</p>	

7	Terms Of Reference of the Standards Committee	Yes	The Standards Committee has an extended terms of reference, beyond the minimum required by statute, in particular in relation to its monitoring of Anti-Fraud and Corruption Strategy and Whistleblowing Complaints.	
8	Scheme(s) Of Delegation	Yes	Updated at least annually and last updated May 2008.	
9	Members' Register Of Interests	Yes	Held on file and on the Council's website. Regular reminders are issued. Members can in addition make voluntary declarations in addition to the statutory requirements and these are held on file.	
10	Recorded Declaration Of Interests	Yes	Interests are recorded at meetings and are recorded on the website.	
11	Members' Induction Process	Yes	New councillors are provided with a comprehensive induction programme. Copies of the programme for the Induction Day and the Training Programme for 2008/09 are attached at Annexes A and B as examples.	
12	Officers' Induction Process	Yes	<p>Corporate induction process is in place and departmental induction processes are also in place.</p> <p>Specific reference has been included in the Officers' Induction Process in relation to the ethical framework. During staff induction it is checked that staff have received a copy of the code of conduct (which they usually have with their contracts) and they are reminded that it is their responsibility to read it and speak with their manager if they have any concerns. Staff are also advised of the disclosure of gifts etc information, and are also advised to contact their managers with any concerns regarding this, or any special arrangements made (for example, working in a care home at Christmas where people may buy them lots of gifts/goodies).</p>	

			<p>It is the responsibility of managers to enforce the code of conduct and ethics and probity issues with staff.</p> <p>The Monitoring Officer is liaising with Learning and Development on evaluating the implementation across departments of training on the ethical framework within the Officers' Induction Programme and will report back to the Committee.</p>	
13	Members' Continuing Development	Yes	<p>A range of development / training opportunities are offered and a record of attendance kept</p> <p>All Councillors have been offered the opportunity to develop Personal Development Plans in order to identify any training and development gaps and to help to develop a Member Training Programme for the year. 34 members undertook these in the first year.</p> <p>The Members Support Officer has developed a new skills and knowledge matrix which has been approved by the Members Development Steering Group. This identifies the various roles of a Councillor, the skills and knowledge needed and the learning and development source. This is available on the intranet in order that Members can undertake a self-assessment of the training and knowledge gaps and requirements. A printed copy of the document was made available to all new members on their election to enable them to understand their new roles.</p> <p>The skills matrix and new Personal Development Plans will be sent to all Members shortly to carry out a refresh of the current plans. The Member Development Steering Group will receive an update at its next meeting.</p> <p>In relation to specific development needs, a session on</p>	



			chairing skills was included in the Member Development Evening Programme on 9 <sup>th</sup> July 2008.	
14	Members' Training	Yes	<p>A range of Training is in place and a record of attendance kept. A copy of the draft training programme for 2008/09 is attached at Annex B.</p> <p>A standard procedure was introduced in January 2005 for Councillors to report back on their attendance at Conferences and External training events via the Members Bulletin.</p> <p>Standards Committee members have been trained in local filtering arrangements; and took part in the pilot as part of their development and preparation for their new role. The members also undertake refresher training whenever the Assessment or Review Sub-Committee or Hearings Panel meets.</p>	
15	Officers' Continuing Development	Yes	<p>A behaviour framework, evaluating the values and behaviours required for the organisation to move forward has just been introduced called "In Touch", which will form part of the annual appraisal in place across the Council. This identifies development needs and provides structured options to accessing appropriate training.</p>	
16	Officers' Training	Yes	<p>A range of Officer training is available, and training needs are identified as part of the appraisal system. The 2008 Council Staff Satisfaction Survey raised specific questions in relation to whistleblowing; understanding of ethical requirements to declare gifts or hospitality or interest in a contract; being treated with respect and fairness; and training requirements</p>	

17	Other Council Specific Additional Codes And Protocols	<p><u>Monitoring Officer Protocol</u> - Adopted in December 2003 and revised by the Committee on 18<sup>th</sup> April 2005 and January 2008, following consultation with Members. It may be appropriate for this to be further adjusted following the introduction of powers for Monitoring Officers to investigate complaints under the Code of Conduct and the Monitoring Officer's role in supporting the local filtering of Standards Board Complaints.</p> <p><u>Guidance to Councillors on Dealing with the Media</u> - adopted February 2002, and revised by the Committee in 2006 and January 2008, following consultation with members and other stakeholders.</p> <p><u>Protocol on Member / Officer Relations</u> - Introduced September 2002 and revised by the Committee on 18<sup>th</sup> April 2005 and January 2008, following consultation with Members. The Association of Secretaries and Solicitors (ACSeS) produced a model code, some of which is based on this Council's protocol.</p> <p><u>Members' Planning Code of Good Practice</u> - adopted February 2004, and revised by the Committee on 18<sup>th</sup> April 2005 and January 2008, following consultation with Members.</p> <p><u>Anti-Fraud and Corruption Strategy</u> – adopted November 2001 and revised by the Committee in July 2007, and investigations are regularly reported to the Standards Committee. This is currently being reviewed and will be brought to the Committee for approval shortly.</p> <p>A Swindon Internal Audit Services Bulletin is issued to Members and Officers approximately twice a year to promote fraud awareness by communicating information on frauds elsewhere to officers and Members, and enable similar frauds to be prevented.</p>	
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Members' Induction – 8 May 2008		
Time and room	Subject	Facilitator
From 11 am to 12 Noon <b>Optional</b>	<i>An opportunity to have a Tour of the Civic Offices and Meet the Committee and Member Services Officers.</i>	<i>Committee and Member Support Officer</i>
12.15 pm to 1pm  <b>Hot Buffet to be served at 12.15 pm</b>  Function Room	Meet the Chief Executive, Group Directors and Cabinet Member for Member Development.  An opportunity for new members to discuss with officers what they would like to achieve during their term of office.	Chief Executive Group Directors Member Development (David Renard) Director of Law and Democratic Services (Monitoring Officer) Director of Finance Committee and Member Services Manager
1 pm – 2 pm Function Room or CR6	Welcome from the Chief Executive The Council's Services  An introduction to the Group Directors.	Corporate Board and Key Officers
2 pm – 2.15 pm Function Room or CR6	Introduction to Local Government Finance	Director of Finance
2.15 pm to 4.00 pm Function Room Or Council Chamber  <b>(break for coffee/Tea and cakes at 3 pm)</b>	Decision Making Ethics and Probity Hear about the Code of Conduct for Councillors	Director of Law and Democratic Services (Monitoring Officer)
4. 00 pm to 4.30 pm Function Room or CR6	Swindon Borough Council and the issues it is facing	Leader and Deputy Leader of the Council
16:30 Function Room  <b>Optional</b>	<i>An opportunity to</i> <ul style="list-style-type: none"> <li><i>Prepare personal development plans; or</i></li> <li><i>ask any questions; or</i></li> <li><i>tour of the building including Mayor's Parlour</i></li> </ul>	<i>Committee and Member Support Officer</i>

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<b>MEMBERS</b> <b>LEARNING AND DEVELOPMENT PROGRAMME FOR 2008/09</b>		
<b>Date, Time, Venue and Facilitator</b>	<b>Subject</b>	<b>Aimed at</b>
<b>8 May 2007</b> <b>12:15 (lunch)</b> <b>1 pm first session</b> <b>function room</b>	<b>Induction Programme for New Members</b>  <b>All new Members should attend this essential training</b>	Councillors elected May 2008
<b>15 May 2007</b> Swindon Commercial Services, Waterside <b>6 pm at Waterside</b>	<b>Swindon Commercial Services Open Evening</b> for both new and current Councillors. The evening will start with a presentation followed by a buffet and then a tour.	All Members of the Council are invited
<b>Annual Council</b> <b>16 May 2008</b>		
<b>20 May 2008</b> <b>6pm</b> <b>CR2</b> Lionel Starling Licensing Officer	<b>Licensing for Committee Members</b>  Essential Training for Members of the Licensing Committee	Members of the Licensing Committee (all other members welcome)
<b>21 May 2008</b> <b>5pm – 7 pm</b> <b>CR6</b> Emma Powell, Scrutiny Officer 01793 463412 or epowell@swindon.gov.uk.	<b>Health Scrutiny Conference</b> Building on the success of the Annual Overview & Scrutiny Conference, the second Health Scrutiny Conference will work with Health Partners to develop a work programme for the Health Scrutiny Committee.	Scrutiny Members
<b>22 May 2008</b> <b>6pm</b> <b>CR2</b> Martin Trewhella Director of Planning  Committee Room 6 Committee Room 2 Or Council Chamber	<b>Planning for Committee Members</b>  Essential Training for Members of the Planning Committee	Members of the Planning Committee (all other members welcome)

**MEMBERS**  
**LEARNING AND DEVELOPMENT PROGRAMME FOR 2008/09**

<b>Date, Time, Venue and Facilitator</b>	<b>Subject</b>	<b>Aimed at</b>
<b>29th May 2008</b> <b>5.30 pm -7.30 pm</b> Council Chamber Emma Powell, Scrutiny Officer 01793 463412 or epowell@swindon.gov.uk.	<b>3<sup>rd</sup> Annual Scrutiny Conference</b> Details to come	Members of Overview and Scrutiny Bodies. New Members Other Members who are interested in this subject
<b>25 June 2008</b>  <b>1pm – 2.45 pm</b> <b>Civic Offices</b>  <b>3pm – 5 pm BBC Radio Studios, Old Town</b>   Gail Downey and Colleagues Red Admiral Productions	<b>Basic Media Training</b> Councillors to be interviewed by telephone on one of their chosen subjects before the training session. This will then be presented, as it would appear in a newspaper. <ul style="list-style-type: none"> <li>The First two hours will be at the Civic Offices covering stories and what a journalist wants, this will be facilitated by Gail Downey, former Journalist and TV and Radio presenter.</li> <li>Adjourn to the BBC Studios in Old Town for Interview Techniques and an opportunity to be interviewed by a Radio Presenter.</li> </ul> If you are interested in attending this session please contact Sally Rhind-Tutt as soon as possible.	New members or inexperienced members who would like some basic training.  This session is limited to 6 people.
<b>9 July 2008</b> <b>5.45 pm</b>	<b>Member Development Evening (see separate programme)</b>	All Members of the Council
<b>9 July 2008</b>	<b>Member Development Evening – A variety of subjects to choose from in one evening</b> <b>Please see separate programme</b>	All Members of the Council
<b>22 July 2008</b> 6 pm CR2	<b>Planning Enforcement</b> The legislative framework and practical application.	All Members of the Planning Committee and other interested Members

**MEMBERS**  
**LEARNING AND DEVELOPMENT PROGRAMME FOR 2008/09**

Date, Time, Venue and Facilitator	Subject	Aimed at
24 July 2008	<b>Housing Tour</b>  The Tour will include: <ul style="list-style-type: none"> <li>• Cavendish Square – Development and Regeneration Works, Evelyn House and New Library</li> <li>• Shaftesbury Avenue – Development and Regeneration Works</li> <li>• Hatherleigh Court – multi storey Block of Flats</li> <li>• Hannington Close – warden’s office</li> <li>• Dr Behr Court – Environmental Improvement Works</li> <li>• The Bungalows – Re-roofing Works</li> <li>• Tree Courts – Regeneration Works</li> </ul> Contact Gerry O'Connor , 463452 go'connor@Swindon.gov.uk or Sally Rhind-Tutt, 463608, srhind-tutt@swindon.gov.uk	All Members
2 September 2008 6 pm CR2	<b>Planning Training - Flood Risk Management</b> Focusing on the role of the Environment Agency.	All Members of the Planning Committee and other interested Members
16 September 2008 Commencing at lunch time at one of the council’s venues for lunch and breaking at 5.30 pm for refreshments again.	<b>Corporate Tour to include the Borough Farms</b> The programme to include sites of interest and the Borough Farms will be circulated shortly.  The tour will start at lunch time and will break for refreshments at about 5.30 pm to give members an opportunity to join or leave the tour to fit in with Members work commitments.	For all Members
20 September 2008	<b>Visit to Plas Pencelli</b> Plas Pencelli is an out door center. This is an opportunity to see the facilities and to try them out!  If you would like to attend please please contact Roz Pauw. <a href="mailto:rpauw@swindon.gov.uk">rpauw@swindon.gov.uk</a> or 01793 463067.	All members of the Council

**MEMBERS**  
**LEARNING AND DEVELOPMENT PROGRAMME FOR 2008/09**

Date, Time, Venue and Facilitator	Subject	Aimed at
1 October 2008	<b>Social Care - Personalisation</b> An Introduction to the transformation programme in social care known as personalisation. An opportunity find out how this will impact right across all Council Services. You will also be given an understanding of the new role within the new ways of working.  Angie King, Adult Social Care Tel 463291	
8 October 2008	<b>Safeguarding Vulnerable Adults Basic Awareness session (organised at the request of the Safer and Stronger Overview Committee)</b> <ul style="list-style-type: none"> <li>▪ To provide participants with basic information and guidance on adult protection &amp; Safeguarding Vulnerable Adults</li> <li>▪ Outline the Policy and Procedure for the Safeguarding Vulnerable Adults in Swindon and Wiltshire</li> <li>▪ Discuss indicators of abuse</li> <li>▪ Give advice on action participants should take on receiving an alert</li> <li>▪ Provide an opportunity to consider and discuss sample alerts and decide on appropriate action and whether the scenarios are bad practice or abuse</li> </ul> Doug Bale, Adult Social Care Tina Mile, Wiltshire Police	
<b>6 November 2008</b> <b>6.00 pm.</b> Function Room Stuart McKellar Director of Finance	<b>Local Government Finance</b> The session is being held at the key stage of the Budget setting process and will give an explanation of the budgets and budget pressures.	New Members and those who would like a refresher in Local Government Finance
<b>17 November 2008</b> <b>6.00 pm – 7.30 pm</b> <b>CR2</b>	<b>Policy Framework &amp; Implementation (Core Strategy / Central Area Action Plan)</b> An overview of the Council's emerging policy framework and how planning application decisions will be taken against this background.	All Members of the Planning Committee and other interested Members



**MEMBERS**  
**LEARNING AND DEVELOPMENT PROGRAMME FOR 2008/09**

<b>Date, Time, Venue and Facilitator</b>	<b>Subject</b>	<b>Aimed at</b>
<b>19 December 2008</b> <b>12 – 2 pm</b>	<b>Christmas Quiz for Staff and Councillors</b> Teams of up to six people each team to include at least one Councillor or one member of staff	All Members and Staff
<b>17 February 2009</b> <b>6.00 pm – 7.30 pm</b> <b>CR2</b>	<b>Developer Contributions –</b> An overview of how and when developer contributions may be sought through the planning application process.  <b>‘Mock Cases’ – An insight into the process of a planning application from validation to determination</b>	All Members of the Planning Committee and other interested Members
<b>23 March 2009</b> <b>6 .00 pm – 7.30 pm</b> <b>CR2</b>	<b>Design, Conservation and Sustainable Construction</b> Focusing on how to ensure good quality, sustainable designs in new development proposals.	All Members of the Planning Committee and other interested Members

### **Learning and Development Resource Library**

The Learning and Development Team, based at the DMJ Building have a resource library which you may like to use. To find out what is available you can access the library data base on the Council's Intranet simply by clicking on the Learning and Development site, go to Resource library (on left handside) and then click on Learning Library. You can narrow your search for certain criteria or browse the whole lot by clicking on 'search'; without entering anything in the other boxes. This will display the books, CDs available which you can then request to borrow.

Alternatively you can contact the Business Support Office at the DMJ Building on 464836 for help or information

### **Modern Councillor - E-learning**

A free facility is available for members to use. Modern Councillor is a rolling programme of new e-learning material designed specifically for elected members. Via the Modern Councillor web site, members can refresh themselves on a range of key topics, starting this month with:

- Introduction to Local Government
- Overview of the code of Conduct
- Partnership Working.

If you would like to use this system please contact Sally Rhind -Tutt with your e-mail address so that you can be issued with log in details

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## leadership behaviour and styles

### questions and probes

1. What role does the chief executive play in ensuring that ethical standards are upheld?
2. What profile do the standards committee and monitoring officer have within the council?
3. To what extent are the diverse needs of the communities are taken into account when setting priorities?
4. Do council members and officers demonstrate that they mediate fairly between people with conflicting needs? Give examples of how they do/don't mediate fairly.
5. To what extent does the council follow legal process when balancing public need and council policy?
6. To what extent do senior members and officers display effective leadership in this council? Do you think they are a catalyst for change where necessary? Give examples.
7. Do members and officers show appropriate dignity and respect for all their colleagues and citizens of the area? Give examples of appropriate/inappropriate behaviours.

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## communications

what will we look for in a review?  
probes and evidence

1. Do you feel there is sufficient guidance/advice available on ethical standards? Provide examples. Where would you go to obtain guidance/advice?
2. What are the standards committee and monitoring officer doing to promote high ethical standards? Can you give examples of where you feel the work of the standards committee has had a positive effect on the work of the council?
3. Do you think the public understand the ethical values of the council? If so how is this communicated to them?
4. Do you think that the stakeholders and or suppliers and contractors to the council understand its ethical values? How are the councils ethical values communicated to other partnership members?
5. What do you think the perception of the wider public is of the ethical standards in the council? Do you think they differentiate between members and officers?
6. How do you think the council responds to criticism?
7. Do you think that communication between members is generally open and honest? Provide examples of when the communication is/is not open and honest.
8. Do you think communication between members and officers is open and honest? Provide examples of when the communication is/is not open and honest.
9. To what extent do you think members and officers respect confidentiality?

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## relationships

roles and responsibilities  
what will we look for in a review?  
questions and probes

1. How would you describe the relationship between the executive (cabinet) and the standards committee?
2. How would you describe the relationship between the standards committee and monitoring officer?
3. How would you describe the relationship between the chief executive and the standards committee and monitoring officer?
4. What do you think the public perception of ethics in the council might be?
5. What do you perceive the image of the standards committee to be in this council?
6. How are ethical issues reported to the executive?
7. What is the frequency of reporting to the executive?
8. In your view is there clarity between the roles and responsibilities of members and senior officers? Can you give examples of when there has/has not been clarity?
9. Are roles and responsibilities for members and officers clearly defined and does their behaviour indicate this?
10. Is there trust between members and officers? Can you give examples of where there has/has not been trust?

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## accountability

decision making  
what will we look for in a review?  
questions and probes

1. Do you think that by their behaviour the majority of members and officers display an understanding of the importance of ethical standards in this council? Can you give examples?
2. Do you think there is a common understanding for members of the ethical values of this council? Can you give examples?
3. Do you think there is a common understanding for officers of the ethical values of this council? Can you give examples?
4. Do you think that the appointment of representatives of the council to outside bodies is carried out in an open and transparent manner? Can you give examples?
5. To what extent do non executive members feel they can hold the executive to be accountable?
6. To what extent do members and officers understand the need for a register of interests?
7. To what extent do members of the public understand who is responsible for what in the council?
8. Do you think that the use of 'exempt information' is constructive or is it used to shield and hide debate?
9. Does the council maximise the opportunity to hold meetings in publicly accessible venues e.g. away from the guildhall? Can you give examples?
10. To what extent do members understand the roles of the statutory officers and know who they are?
11. Do you think that senior officers are accountable for the decisions they take? Can you give examples?

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## management of standards

ethical standards constitution, design and culture  
what will we look for in a review?  
questions and probes

1. Do you feel that members and officers have access to all the relevant information/guidance that they need to do the job properly? Can you give examples?
2. How easy is it to:
  - i. Declare an interest
  - ii. Register an interest
  - iii. Claim expenses
  - iv. Offer and/or receive hospitalityHow clear are you clear about the systems and processes involved?
3. To what extent are ethics in the council assessed or monitored?
4. To what extent are members/officers aware of any protocols, for example member/officer protocols, IT, allowances and expenses?
5. Can you give examples of where a lack of guidance may have led people to fail to follow set procedures?
6. To what extent do you think that the council makes it clear to all of its suppliers/contractors the level of ethical behaviour expected from their employees?
7. To what extent do you think that suppliers/contractors are aware of the standards of behaviour expected of council officers and members?
8. Do all members and officers have a role to play in maintaining high ethical standards or is it just the responsibility of just the standards committee?
9. How easy is it for members or staff to invoke the whistle blowing policy?

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Annual Review 2007-08 available online

Monitoring officer seminar

Ethical governance toolkit

### 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 40 of the *Bulletin*.

In this *Bulletin* we present an initial analysis of the first quarterly monitoring returns we have received from authorities on local case handling. A fantastic 98% of authorities have submitted their returns

and provided us with a clear overview of the successful operation of the devolved ethical framework so far. Thank you all for helping us to ensure the quality of the data.

We are using this opportunity to seek your views on the potential adjournment of assessment sub-committee decision making. This is in order for the monitoring officer to find out whether a subject member would co-operate with a referral for other action. We outline our concerns with this approach, and its possible advantages, and invite your feedback on the most appropriate practice.

Finally, I am pleased to introduce two new Board members, **Michael Kendall** and **Elizabeth Abderrahim**, and confirm that **Professor Judy Simons** has been appointed as the Standards Board for England's new Deputy Chair.

**Glenys Stacey**  
Chief Executive



## Seventh Annual Assembly of Standards Committees

13-14 October 2008, ICC Birmingham

See page 4 for more details

## Guidance on the local standards framework

The final section of our guidance on the local standards framework has now been completed and is available online in the Guidance section of our website [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk).

The *Standards committee determinations* guidance has been designed to help members and officers in relevant authorities who are involved in the determination of complaints that a member may have breached the Code of Conduct.

It details each stage of the determination of complaints process 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.

Folders containing all of the local standards framework guidance will be sent to monitoring officers in early September. Please note that we have updated *The role and make-up of standards committees* guidance and *The local assessment of complaints* guidance since they were first made available on our website. We therefore recommend that you use the guidance in the folder, or the guidance which is currently on our website, as opposed to any versions that you might have printed off previously.

## Analysis of first quarterly monitoring returns

### Data collection

The first quarter of local case handling has now ended. Following this, we sent an email to the monitoring officers of all principal authorities requesting that they submit their first quarterly return before the deadline of 14 July 2008. The return helps us to provide the national and independent oversight necessary for there to be confidence in a locally based system of complaint handling.

The first return covers the period of 8 May to 30 June 2008 and involved monitoring officers answering a series of questions about their authority's standards committee. They were also required to answer questions about any cases that had been handled locally.

As this was the first time that monitoring officers had to submit a return – and because our online system is brand new – we expected a few teething problems with the data collection. However, we received an overwhelming response rate, with a return from **98%** of authorities.

We are also pleased to report that **90%** of the returns do not have any issues needing further clarification.

Thank you to all monitoring officers, and other authority employees who submitted on their behalf, for ensuring that we have a good, solid data set. This will help us begin to formulate a national picture of local case handling. It will also serve as a starting point for identifying standards committees that we can work with to achieve the goal of ensuring consistently high ethical standards in local government.

## Feedback

We are currently gathering feedback from a sample of monitoring officers about their experiences of completing and submitting their quarterly return. Thanks to all the monitoring officers who are participating in this. As a result, we are already looking at making some improvements to the system for future quarterly returns. These include:

- an automated acknowledgement page, so that you will know instantly that your return has been submitted successfully
- a smarter log off procedure, so that monitoring officers of more than one authority can switch between multiple accounts more easily
- improvements to the way that closed cases are managed by the system (over the long term we hope to include an archive of old case details)

## Analysis

We are currently analysing the **90%** of returns that are complete, and contacting the other **8%** of authorities whose returns have issues that need clarifying. We have sent a further request to the **2%** of authorities who have not yet submitted their return.

However, our initial observations of the data are as follows:

### Standards committees

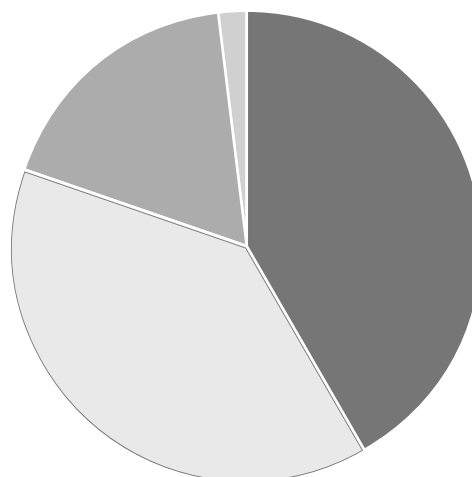
- On average, standards committees have nine members in total, which includes three independent members and, if the authority has parish or town councils, three parish representatives.

- **99%** of standards committees have an independent chair.

### Cases handled locally

- **321** cases were received locally between 8 May and 30 June 2008.
- Because the reporting period was shorter than usual, **48%** of cases did not have a decision about how they should be handled by the time the quarter closed. The chart below shows the split of decisions for all cases where a decision was made.

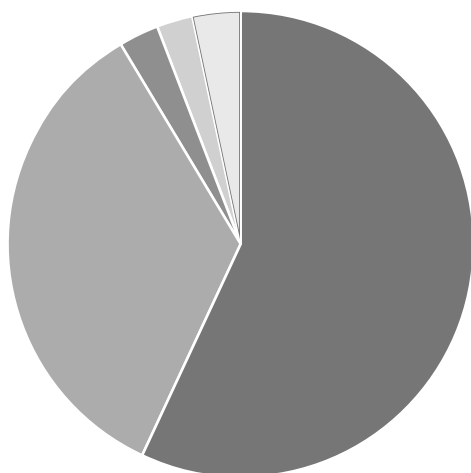
### REFERRAL DECISIONS



- 3** Referred to the Standards Board for England
- 30** Referred to the monitoring officer for alternative action
- 65** Referred to the monitoring officer for investigation
- 70** Not referred for investigation

- Discounting the cases where a decision had not been reached, the breakdown shows that most cases were either referred to the monitoring officer for investigation or not referred at all.

SOURCE OF COMPLAINT



- As shown in the chart above, more than half of the cases came from complaints made by members of the public. A large proportion also came from members.

The next quarterly return covers case activity in the period 1 July to 30 September 2008. This includes new cases received in the period and previous cases that have progressed in the period. The submission window for returns will be open from 1 to 14 October 2008. A reminder email will be sent to all monitoring officers nearer the time.

A more detailed breakdown of quarterly returns is now available in the Quarterly statistics section of our website [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk).

## Forthcoming events

More than 800 delegates will be attending the fully booked **Seventh Annual Assembly**, 'Delivering the goods: Local standards in action' at the ICC, Birmingham, this October.

Breakout sessions are filling up fast and if you have secured your place at the conference, you are urged to choose your sessions and return your preference form as soon as possible to avoid disappointment.

Many of the presentations and handouts from the Assembly will also be available on the conference website, [www.annualassembly.co.uk](http://www.annualassembly.co.uk) straight after the event.

We will also be exhibiting at the **Liberal Democrat party conference**, 13-18 September 2008, **Labour party conference**, 21-25 September 2008 and the **Conservative party conference**, 28 September – 1 October 2008.

The Standards Board is urging authorities to enter the Standards and Ethics award category at the **2009 LGC Awards**.

Entering the Standards and Ethics award is a great opportunity to raise the profile of your standards committee. The award will go to an authority which has a dynamic, innovative approach to improving and promoting standards of member conduct. Reaching the final shortlist will also mean that your authority's ethical standards have been judged to be among the best in the country – a powerful message to send to your local community.

Entries are welcome from authorities of any size or status. You can submit yours online at [www.lgcawards.co.uk](http://www.lgcawards.co.uk), where you can also find further information on the criteria for the Standards and Ethics category and on the LGC Awards as a whole. The closing date for entries is 3 October 2008.

**Date for your diary: The Eighth Annual Assembly will be held on 12-13 October 2009 at the ICC.**

## Seeking views on adjourning local assessment decisions

Under Section 57A(2) of the Local Government Act 2000, as amended (the Act), when a standards committee receives a complaint it must either:

- (1) take no action on the complaint
- (2) refer the case to the Standards Board for England, or
- (3) refer the case to the monitoring officer of the authority concerned

If the third option is chosen, then under Section 66(6) of the Act, the standards committee can give directions to the monitoring officer about how to deal with the case. The case can either be dealt with by way of a direction to investigate it or to take other action. Once a case is referred for action other than investigation it cannot subsequently be investigated.

Understandably, some standards committees are reluctant to direct the monitoring officer to deal with a case by way of other action when they may not know enough about the circumstances of the case, and do not know whether the member complained about will cooperate with that other action. This is especially true when there does not appear to be any sanction against a member who fails to cooperate with other action, other than perhaps another complaint based on disrepute.

It has been suggested that one way around this difficulty is for the standards committee to adjourn consideration of a case they think might be suitable for other action, and ask the monitoring officer to find out whether the member will cooperate.

An adjournment to enable effective consultation with the monitoring officer would appear to be possible. It is something that does not appear to be prohibited by law. Also, paragraph 13(2) of the

Standards Committee (England) Regulations 2008 (the Regulations), requires the standards committee to consult with the monitoring officer before giving any direction to take other action.

However, there are concerns. Much depends on how the decision is minuted. If the monitoring officer is asked to find out more about the case and the options available to take other action, rather than specifically asked to find out about the attitude of the member to other action, some of those concerns lessen.

Here are some concerns and advantages we have identified and an alternative approach.

### Concerns

- (1) Asking the monitoring officer to find out whether the member will cooperate runs the risk of putting the decision about investigation or other action in the hands of the subject member and not the assessment sub-committee.
- (2) The target of dealing with complaints within 20 working days is difficult to achieve.
- (3) What other action is to be discussed and who decides it? Will the standards committee or the monitoring officer effectively make the decision? Or, will it end up being a negotiation with the member if they say "Well, I am not having mediation but I will do training if it consists of X and is done by Y"? We believe this would undermine the authority of the standards committee.
- (4) There is a danger that the monitoring officer will end up effectively starting an investigation before being instructed to do so.
- (5) The member may take the opportunity to try and give the monitoring officer information to pass on to the standards committee to try and persuade it to take no action.

- (6) The more information the monitoring officer collects during the adjournment the more difficult it becomes for members of the standards committee to sit as part of a hearing panel later. The member will find it easier to argue that any standards committee member is biased by having received more information than was appropriate or necessary to carry out their functions under Section 57A of the Act.
- (7) There is an argument that taking into account information other than that provided by the complainant is unlawful. We say the monitoring officer can take steps to clarify the complaint or clarify basic facts. If the subject member is asked how they would react to a direction for other action, this would be finding out what the subject member thinks and feeding that into the decision-making process. Is that an irrelevant consideration?

## Advantages

- (1) The members of the standards committee know what the member's attitude is said to be about the solution the standards committee is proposing to deal with the complaint.
- (2) The standards committee can send a case for investigation when the alternative might have been ineffective other action.
- (3) The case may be settled and the standards committee can decide to take no action.

## Alternative

The standards committee sends the case for investigation and lets the monitoring officer know that it might not consider the case to be as serious, if the member were willing to comply with other action. Therefore, if the member so indicates then (subject to any other information the monitoring officer might have gathered which suggested otherwise) the monitoring officer

should feel free to ask that the case be returned to them.

Regulation 16(1)(a) of the Regulations might be capable of being read as supporting this approach. However, there can be a difference between the seriousness of a case and the appropriate way to resolve it.

We would like to receive views from you about what you think should constitute the most appropriate practice. Please contact [kymberlie.connell@standardsboard.gov.uk](mailto:kymberlie.connell@standardsboard.gov.uk) with your views by **22 September 2008**.

## New Deputy Chair and Board members appointed

**Professor Judy Simons** has been appointed as the Standards Board for England's new Deputy Chair by the Secretary of State for Communities and Local Government. The Secretary of State also appointed **Michael Kendall** and **Elizabeth Abderrahim** as our new Board members.

These appointments to the Board began on 14 July 2008 for a three-year term. Professor Judy Simons takes over from Patricia Hughes CBE, who was Deputy Chair of the Standards Board since it was established in 2001. Patricia's term ended on 30 June 2008.

Michael Kendall was Monitoring Officer at West Sussex County Council and is former Lead Officer and former President of ACSeS. Michael replaces Roger Taylor whose term ended on 30 October 2007.

Lizzie Abderrahim is a self-employed Freelance Trainer and Independent Chair of Gloucester City Council's standards committee. Lizzie replaces Professor Judy Simons who became Deputy Chair.

In announcing the new appointments on 17 July 2008, Minister for Local Government **John**

**Healey** said he was pleased with all the appointments. “All three bring extensive skills and experience to their new roles and will help the Board to develop its role in the maintenance of high standards of conduct in local government.” He also thanked Patricia Hughes for all she had done during her time as Deputy Chair.

## Standards Board investigations

We are now receiving the first cases referred to the Standards Board by standards committees. As you know, there are a number of factors we take into account in reaching our decision whether to accept them. This includes exceptional circumstances.

The recent amendments to the Local Government Act 2000 enhanced our powers to share information related to investigations with other regulators, particularly the Local Government Ombudsman and the Audit Commission. We are working with these two organisations to update our communications. The new memoranda of understanding will be publicly available when completed.

One of the matters to come out of our discussions with the Ombudsman was that we would expect to accept complaints which involve allegations of both maladministration and a breach of the Code as an exceptional circumstance. This means that the two investigations could be organised in the most effective and timely way. So, if you are dealing with a complaint arising from incidents that have also resulted, or are likely to result, in an Ombudsman case or an audit enquiry, you will find the Standards Board sympathetic to a request to investigate.

Another amendment to the Local Government Act 2000 gives ethical standards officers the power to send final reports of investigations which do not result in a standards committee hearing to standards committees. This can

happen if the ethical standards officer “believes that it will assist that committee in the discharge of its functions”, as quoted from Section 64(3A) of the Local Government Act 2000.

The functions of a standards committee are:

- to promote and maintain high standards of conduct by members
- to advise on the adoption and revision of a code of conduct
- to monitor its operation
- to arrange training on matters related to the authority’s code of conduct

They also, of course, now have functions relating to complaints of breaches of the Code of Conduct.

We are now sending copies of reports to standards committees when most investigations are completed. We think that it is important for standards committees to understand the background to ethical problems that may have arisen in their area. Sometimes investigations suggest problems with particular policies, procedures or culture locally, which are not part of our remit to investigate, but which seem likely to cause further problems in the future. Where this is the case, we will draw the committee’s attention to those things which we think they might want to look into.

The reports are not sent to enable the committee to reconsider the complaint. Not only would it be unfair to the member concerned to do that, but the committee would not be able to do it fairly without being able to satisfy itself that it could look at and question the primary evidence.

We would be very interested to know how useful standards committees find these reports and any suggestions of ways we could help them use this learning opportunity. Please feel free to contact the Standards Board’s Investigations team on **0161 817 5300** with your thoughts.

## **Annual Review 2007-08 available online**

The Standards Board's Annual Review 2007-08 is now available from the Publications section of our website [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk). In it, we look back at our performance over the past 12 months and look ahead to future challenges and opportunities.

The theme of this year's review is 'Local delivery. National support.'. It looks at how we prepared for 8 May 2008, when local authorities' standards committees became responsible for receiving complaints and deciding what to do with them. The review also looks at our new, more strategic role, and how it will enable us to offer greater support and advice on the ground.

This year, we have also provided a text only version on our website, which means that you can read and print the text from each chapter, as well as downloading the publication as a pdf. If you require a hard copy, please email [publications@standardsboard.gov.uk](mailto:publications@standardsboard.gov.uk).

## **Monitoring officer seminar**

On 16 June, the Standards Board hosted a seminar for monitoring officers who have carried out ethical standards officers' directions. A direction is where an allegation of a breach of the Code of Conduct is sent back to a monitoring officer for alternative action. This may include the use of mediation, conciliation, conflict resolution, mentoring, training, and review of policies and protocols.

As we develop the use of directions, we will encourage the constructive use of party group discipline and leveraging in peer support from neighbouring authorities that have overcome their problems.

The event was run by Jennifer Rogers, Ethical Standards Officer, and John Williams, Senior

Policy Adviser. Fifteen monitoring officers attended, and each shared their successes and failures, including their experience of difficulties at parish level.

Key messages were that disputes are often very deep seated and originate in events that occurred long ago; and that disputes that might be inflamed by investigation are better approached by alternative action. There is a specific provision for alternative action in regulations made under the recent Local Government and Public Involvement in Health Act 2007.

We are having another seminar in January so we can share and develop our ideas further in the light of experience. Please call Kymberlie Connell on 0161 817 5300 or email [kymberlie.connell@standardsboard.gov.uk](mailto:kymberlie.connell@standardsboard.gov.uk) if you would like to become involved in this initiative.

## **Ethical governance toolkit**

The Standards Board, the Improvement and Development Agency and the Audit Commission have been working in partnership to update the ethical governance toolkit. The toolkit reflects the changes brought about by the Local Government and Public Involvement in Health Act 2007 and is now available to use.

Many authorities have already benefitted from using the toolkit, which is designed to help local authorities identify how well they are meeting the ethical agenda and to improve their arrangements.

For further information on the ethical governance toolkit and for contact details, please visit the Ethical Governance section of the IDeA website, which you can find at [www.idea.gov.uk/knowledge](http://www.idea.gov.uk/knowledge) or contact the Audit Commission by email at [infogovcounterfraud@audit-commission.gov.uk](mailto:infogovcounterfraud@audit-commission.gov.uk).



## **Independent Members' Forum**

### **Berkshire, Oxfordshire and Wiltshire Standards Committees**

**Notes of a Meeting of the Forum Held at Cherwell District Council Offices,  
Bodicote House, Bodicote, Banbury, Oxfordshire on Friday 26 September 2008.**

#### **Present:**

Michael Field	Independent Member	Slough
Henna Khan	Independent Member	Slough
Paul Lipscomb	Independent Member	Slough
Steven Quayle	Monitoring Officer	Slough
John Bingham	Independent Member	West Berkshire
Mike Wall	Independent Member	West Berkshire
Tracey Allen	Monitoring Officer	Windsor and Maidenhead
Ian Hunt	Deputy Monitoring Officer	Windsor and Maidenhead
Roger Sparrow	Independent Member	Windsor and Maidenhead
David Comben	Independent Member	Wokingham
Eric Davies	Independent Member	Wokingham
Anita Grosz	Independent Member	Wokingham
John Giles	Independent Member	Wokingham
David Soane	Independent Member	Wokingham
Kevin Jacob	Democratic Services	Wokingham
Liz Howlett	Monitoring Officer	Cherwell
Douglas Frewer	Independent Member	Cherwell
Sadie Reynolds	Independent Member	Cherwell
David Best	Democratic Services	Cherwell
John Lay	Independent Member	Oxford City
Jeremy Thomas	Monitoring Officer	Oxford City
Sylvia West	Independent Member	South Oxfordshire
David Howard	Independent Member	Vale of White Horse
Margaret Thompson	Independent Member	West Oxfordshire
Alan Savill	Independent Member	Kenet
Bob Philpott	Independent Member	North Wiltshire
Rodney Job	Independent Member	Salisbury
Trevor Davies	Independent Member	Swindon
David Dawson	Independent Member	Swindon
Keith Shipman	Independent Member	Wiltshire County
Isabel McCord	Independent Member	Wiltshire County

#### **Apologies for Absence**

Gordon Anderson	Independent Member	Bracknell Forest
John Hicks	Independent Member	Reading
David Holling	Monitoring Officer	West Berkshire
James Rees	Independent Member	West Berkshire
Charles Elly	Independent Member	Windsor and Maidenhead
Helal Stephan	Independent Member	Windsor and Maidenhead
Karnail Pannu	Independent Member	Windsor and Maidenhead
James McBeth	Independent Member	Cherwell
Meryll Dean	Independent Member	Oxford City
Martin Gardner	Independent Member	Oxford City
Ann Gwinnett	Independent Member	Oxford City
William Reed	Democratic Services Manager	Oxford City

Peter Clark	Monitoring Officer	Oxfordshire County
Ann Griffiths	Independent Member	Oxfordshire County
Keith Baldwin	Independent Member	South Oxfordshire
Jeffery Lemon	Independent Member	Vale of White Horse
Mike Roberts	Independent Member	Vale of White Horse
Stuart Harrison	Independent Member	West Oxfordshire
Gordon Halliday	Independent Member	West Oxfordshire
James Carine	Independent Member	North Wiltshire and Wilts Fire
Tony Frost	Independent Member	West Wilshire
Peter McGuigan	Independent Member	Wilts County and Berks Fire
Catherine O'Sullivan	Independent Member	Wiltshire County
Digby Baker	Independent Member	Wilts and Swindon Fire
John Adams	Independent Member	Wiltshire Police
Paul Thomas	Solicitor	Thames Valley Police

## 1. Welcome

Mr Douglas Frewer, Independent Member Chairman of the Cherwell District Council Standards Committee, welcomed those present to the meeting and indicated that Cherwell was delighted to host the Forum for the first time.

## 2. Notes of the Previous Meeting

The Forum received the notes of the previous meeting held on 29 February 2008 which were accepted subject to the name of Henna Khan (Independent Member – Slough) being added to the list of Member apologies presented to that meeting.

## 3. Meeting of Independent Forum Co-ordinators Held on 17 July 2008

The Forum received and noted the Minutes of the meeting of the Independent Forum Co-ordinators hosted by the Standards Board in Manchester on 17 July 2008.

The Forum discussed a number of matters included in the minutes as briefly summarised below:-

- (1) **The Balance Between Independent and Other Members of Standards Committees (Item 2)** – the arrangements relating to the make-up of standards committees across authorities were discussed and the variations between the numbers of independent and other members (elected and parish representatives) were noted. It was acknowledged that there had to be sufficient numbers of each grouping to meet the requirements of the local filtering regime;
- (2) **Standards Board Annual Assembly (Item 4)** – the merits of attending the Annual Assembly were discussed including the suggestions for improving the format, frequency and location of the Assembly. These included the holding of regional assemblies (although the pressure this would place on the Standards Board was accepted), using the second day as a training opportunity, the re-working of the plenary sessions as these tended to be dominated by the politicians and moving to a single day given that the workshop sessions were repeated over the two days. The cost of attending the Assembly was seen as prohibitive although it was always over subscribed. Members concurred with the view that new information should not be introduced at the Assembly but rather every effort should be made to publish and disseminate such information at the earliest opportunity.

The Forum was reminded that it was represented on the Co-ordinators Group by Trevor Davies (Swindon) and considered whether to designate a Deputy to attend future meetings when Mr Davies was unable to do so. In this respect it was agreed that David Comben (Wokingham) should be the designated Deputy for Mr Davies.

#### **4. Review of the Forum**

Members received a paper that provided the opportunity to review how the Forum operated and as such identified a number of issues which included the frequency, timing and venue for meetings, the business to be considered, the levels of input from members/authorities across the three counties and not least the level of participation and future involvement of the Standards Board.

The Forum debated the issues at length and whilst no firm conclusions were reached at this time it was felt that the meetings held so far had been very useful and that it was imperative that the Standards Board fully supported the regional independent member forums. It was recognised that this Forum would need to justify why it felt the input of the Standards Board was so important. Several suggestions came forward on the potential format for future meetings. These included (i) themed meetings with guest speakers; (ii) inviting monitoring officers to give presentations especially when new legislation had been introduced; (iii) using meetings for training purposes – Members were aware that the onus in relation to the provision of training fell to the relevant local and other authorities; (iv) to continue more or less as now which was essentially the sharing of information and good practice where networking was an essential feature and (v) the practicalities of inviting elected members to attend future meetings; given the nature of the Forum this latter suggestion was not generally supported.

David Comben (Wokingham) volunteered to put together some thoughts and canvass (via Keith Butler) the views of all Members on the purpose, future direction and how the Forum might operate in future as a way of ascertaining exactly what Members wanted to achieve and how to go about this. The responses could then be collated and would form the main item at the next, or subsequent, meeting. It was also suggested that the other regional forums could be contacted to ascertain their views on this matter.

#### **5. Remuneration for Independent Members of Standards Committees**

The Forum received details of (i) the letter circulated by the Chairman of the Association of Independent Members of Standards Committees (AIMSce) to Chief Executives asking that independent members should have access to all the allowances available to elected members subject to the right to decline allowance payments if the member sees this as compromising their independence; and (ii) a table setting out the levels of the allowance payments made to independent members collated from a sample of relevant authorities.

The Forum discussed whether the Standards Board should issue a basic job description for independent members as this could be used as part of the process of providing the information necessary to justify the payment of allowances; Swindon had prepared a job description for its independent members and this was available on that Authority's website. The variations in the levels of the allowances, paid by the authorities set out in the circulated table, were noted. Members took the view that there were no specific issues they wished to discuss primarily as the levels of the allowances were set at the discretion of each authority who were probably best placed to take a view on the appropriateness of the allowances paid to their independent members.

## **6. Indemnities for Councillors and Members of Committees**

Sylvia West (South Oxfordshire) had asked that the above item be included on the agenda for discussion. Members noted that it was at the discretion of each authority to decide the indemnity cover provided for elected members. There was no standard practice and it was likely that in some authorities there was no indemnity cover. The option was available to self insure but this could be extremely expensive. Trevor Davies (Swindon) mentioned that job descriptions had been prepared for that Authority's independent members (see 5 above) which could help for insurance purposes. The conclusion was that members should ask their authorities what their indemnity policies were and whether independent members were covered.

## **7. Recommendations to Parish Councils**

Sylvia West (South Oxfordshire) had also asked that the Forum discuss the processes that could be put in place to ascertain if a parish or council had pursued recommendations made by a standards committee after a formal complaints case.

Steven Quayle (Monitoring Officer (Slough)) advised that it was the responsibility of the monitoring officer to check that the appropriate action had been taken and if it hadn't, the case should be taken back to the standards committee. The monitoring officer should, as a matter of good practice, always ensure that a "Timed Action Plan" was in place.

## **8. Open Forum**

The Forum took the opportunity of reviewing the work of the various standards committees over the past six months. This showed that in total some 19 complaints had been received by 9 authorities; 4 authorities had not received any complaints. Of the 19 complaints 5 had been subject to investigation. Two cases involved planning matters. The outcome of the other cases was briefly outlined.

## **9. Date and Venue for the Next Meeting**

The next meeting to be held in March or April 2009 following the next meeting of the Regional Independent Forum Co-ordinators. David Howard was to confirm whether the Vale of White Horse would host the meeting. Date and venue to be confirmed by e-mail.

The meeting ended at 12 45 pm

NOTES OF THE INDEPENDENT MEMBERS REGIONAL FORUM MEETING  
HELD ON FRIDAY 26<sup>TH</sup> SEPTEMBER 2008 AT THE CHERWELL DISTRICT  
COUNCIL OFFICES BODICOTE BANBURY OXFORDSHIRE

The meeting commenced at 11.00 hours on Friday 26<sup>th</sup> September 2008 in the Council Chamber of Cherwell District Council.

The meeting was attended by 29 members with representation from a number of the Standards Committees in Oxfordshire, Berkshire, and Wiltshire. The majority were independent members with four Monitoring Officers present, and Swindon was represented by David Dawson and T Davies.

The meeting was chaired by Douglas Frewer the independent chair of the Cherwell District Council's Standards Committee. No representative from the Standards Board for England was present.

Apologies for absence received by Keith Butler were not read out but will be attached to the minutes.

The minutes of the meeting held on 29<sup>th</sup> February 2008 were accepted as an accurate record and no matters arising were raised.

The minutes of the meeting of co-ordinators of independent members' forums held on 17<sup>th</sup> July 2008 at the Standards Board Manchester offices were discussed and the following issues raised.

TD apologies for not being able to attend but the date selected was notified only ten days prior to the meeting and it clashed with statutory court training event. Just in case this situation arises again David Comben from the Wokingham Standards Committee agreed to deputise.

The view as expressed that the Annual Assembly should continue perhaps only lasting one day to save on costs or the second day have a training component. The suggestion by Bruce Caxton that regional assemblies should replace the annual assembly was rejected as the regional meetings are sufficient at present. However it was noted that the assembly is oversubscribed so in order that allow greater participation perhaps expanding the attendance to all standard committee members and reviewing the role of the regional meetings may be required.

In the light of the possibility of the non attendance of Standards Board officers at future regional meetings and the need to determine the remit and content of the regional independent members six monthly meetings it was agreed to accept David Combens offer to write a short paper covering frequency, venue, content and attendance. The paper will be circulated in time to be discussed at the April 2009 meeting and if any standards committee member has a view on the future arrangements they would like to have considered they should write to David Comben (dc@comben 1.waitrose.com).

The general view appeared to be that the regional meeting would be to allow sharing of good practice across the region; allow the opportunity for training on special issues; and consider case studies to allow members who deal with no or few complaints to keep decision making skills up to date.

The issue of remuneration for independent members of Standards Committees was raised as the result of a letter from the Association for Independent Members of Standards Committees as a number of authorities make no payment. The guidance states that an allowance should be paid at a level determined by the independent remuneration panel (this happens in Swindon). The view was that this was a matter for each authority which has a standards committee and it might help recruitment if independent members receive some form of basic co-optees allowance and can claim for travel, loss of earnings etc.

The issue of indemnity for councillors and members of Standards Committees was raised. TD advised that this was a matter to be raised by members with their individual authorities but that it was important that the boundaries of members decision making and powers were agreed by their authorities and they have a published job description. It was assumed that the normal arrangements each authority has to provide indemnity for officers and elected members would cover co-opted independent standards committee members.

The issue was raised on what processes may be in place to ascertain if a parish or council has acted upon recommendations made by a standards committee following the hearing of a formal complaint. It was agreed that the parish concerned should be working to a timed action plan that is reported to the standards committee and council by the monitoring officer.

The date of the next meeting will be in April 2009 but the exact date and venue will be published later following discussions with the Vale of the White Horse Council.

The meeting closed at 1 p.m. followed by lunch.

## Agenda Item 7

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

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