

## Swindon Borough Council

# Standards Committee

**Monday, 19 January 2009**

Committee Room 1, Civic Offices  
(Anticipated meeting room)

**At 5.00 p.m.**

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

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

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

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

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## **AGENDA**

**1. Apologies for Absence**

**2. Declarations of Interest**

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

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

To receive the minutes of the meeting held on 20<sup>th</sup> October 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. Ethical Framework Update** (DLDS-B) (Pages 3 - 50)

6. **Question and Answer Session - Leader of the Council** (Pages 51 - 66)
7. **Anti-Fraud and Corruption Strategy** (DLDS-B), (HIA-CE) (Pages 67 - 102)
8. **Ethical Framework Compliance Update** (DLDS-B) (Pages 103 - 104)

9 January 2009 (being date of agenda despatch)

**Key:**

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

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

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

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

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

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

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer

or the Standards Board for England, or which may arise under the 'local filtering' arrangements for complaints as to breaches of the Members Code of Conduct;

- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) to also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) to grant and supervise exemptions in relation to those politically restricted posts for which it is responsible
- (m) ensure the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular
  - receive annual reports on its operation
  - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
  - adjudicate upon all complaints which remain unresolved
  - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour
  - approve and publish an annual report upon the operation of the system;
- (n) report to the Council when it considers:-
  - standards of conduct and behaviour in a particular area need reviewing, and
  - the level of commitment necessary to resolve these difficulties should be greater;
- (o) approve the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (p) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (q) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (r) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

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**STANDARDS COMMITTEE**

**MONDAY, 20 OCTOBER 2008**

PRESENT:- Mr Trevor Davies (Vice-Chair), Mr Paul Morris, Mr David Dawson, Mr Mike Compton, Councillor Melanie Duff, Councillor Peter Stoddart, Councillor Maurice Fanning and Councillor Fay Howard.

Apologies for absence were received from Mr Keith Carby and Mr Martyn Cook.

**9. Declarations of Interest**

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

**10. Minutes**

Resolved – That the minutes of the meeting held on 14<sup>th</sup> July 2008, be confirmed and signed as a correct record.

**11. Public Question Time**

No public questions were received during the meeting.

**12. Exempt Items - Exclusion of Press and Public**

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 7 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 14 refers.)

**13. 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) Communities in control: real people, real power: Codes of conduct for local authority members and employees – The Committee reviewed the consultation document and authorised the Monitoring Officer, in consultation with the Chair and the Director of Human Resources and Change, to submit a response to the Department of Communities and Local Government in line with the discussion.

(b) Desktop Ethical Audit – The Committee noted the update on the Desktop Ethical Audit and asked that the Chief Executive and the Leader of the Council be invited to the next Standards Committee meeting to ascertain their key priorities and key areas for action and review and that the Monitoring Officer report back to a future meeting on the Ethical Desktop Audit.

(c) National Fraud Initiative – The Committee noted the Council's involvement in this initiative.

(d) Swindon Standards Conference – The Monitoring Officer confirmed that a

date had not yet been set for this conference.

(e) Parish Councils – Mike Compton reported that he would be making his last Parish Council visit on 20<sup>th</sup> November, when attending Castle Eaton Parish Council, and that following this visit he would report back to the Committee. Three Parish Councils (Liddington, Highworth and Covingham) had identified the need for further training.

(f) Standards Board Publications – The Committee noted the Standards Board Bulletin for August 2008. It was noted that the number of Code of Conduct complaints had reduced nationally, but there had been an increase in the number of referrals for investigation.

(g) Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum – The Committee considered the minutes of the forum meeting held on 26<sup>th</sup> September and noted that the main issues were around remuneration for Independent Members of Standards Committees and indemnities for Councillors and Members of Committees.

(h) Seventh Annual Assembly of Standards Committees – Trevor Davies agreed to write up a report on this and bring it to the next meeting.

Resolved – (1) That the Ethical Framework update be noted.

(2) That any further comments on the Department of Communities and Local Government Consultation Paper be forwarded to the Monitoring Officer, and the Monitoring Officer be authorised, in consultation with the Chair and the Director of Human Resources and Change, to submit a response to the Department of Communities and Local Government in line with the Committee's discussion.

(3) That the Chief Executive and Leader of the Council be invited to the next meeting to discuss the Desktop Ethical Audit.

#### **14. Ethical Framework Compliance Update**

The Committee considered a report of the Director of Law and Democratic Services regarding the outcome of various ethical framework compliance matters, including complaints received to date under the new arrangements of Code of Conduct Complaints.

The Committee agreed that Councillors and Parish Councillors who were the subject of complaints would not be named within the Ethical Framework Compliance Update reports, as they were named within decision notices where agreed appropriate by the Review or Assessment Sub-Committees.

It was also agreed that the terms of reference for the Standards Assessment Sub-Committee and the Review Sub-Committee be amended to include membership of either 1 Parish Councillor or 1 Independent Member, in addition to 1 Elected Member and 1 Independent Member (Chair). This was except for the occasions where the complaint related to a Parish Councillor and / or when the Statutory Regulations required that the Sub-Committee include Parish Council Representation.

Resolved – (1) That the Ethical Framework Compliance Update report be noted.

(2) That the Monitoring Officer amend the terms of reference of the Standards Assessment Sub-Committee and the Review Sub-Committee as set out above.

## Ethical Framework Update

Standards Committee

Date: 19th January 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 Use of Resources assessment for probity and propriety be welcomed;
- That the Committee review the process of preparation of the Council's Annual Governance Statement and the Group Directors / Directors assurance statement; and
- That the Committee consider the report on Parish Council visits.

### 1. Reasons

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

### 2. Detail

#### *Use of Resources*

- 2.1 The Council's Use of Resources work for 2007/08 contributes to the Council's star rating under the Comprehensive Performance Framework (CPA), which will be published in February 2009.
- 2.2 The Audit Commission has confirmed that the overall theme score for Internal Control will continue to be 3, as in the previous years. In addition the notable practice and score of 4 for probity and propriety has been maintained for a second consecutive year, as a result of continuing development and embedding of arrangements. In particular, the Use of Resources Briefing note states that the Council continues to "perform strongly in the area of probity and propriety with its general notable practice in this area continuing to be recognised as such by the Audit Commission". A copy of the notable practice submission is attached at Appendix '1'.

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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: 19th January 2008

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### *Interim Report on Local Filtering Arrangements – The First Eight Months*

- 2.3 Under the new local filtering arrangements in operation since 8<sup>th</sup> May 2008, the Standards Committee has received 12 complaints up to the 8<sup>th</sup> January 2009, involving 9 Borough Councillors and 2 Parish Councillors. We received 7 complaints for the period 8<sup>th</sup> May 2008 to 30<sup>th</sup> September 2008, which compares to an average of 4.2 complaints per unitary authority for that period.
- 2.4 None of the complaints were made by Borough or Parish Councillors. Attached at Appendix '2' is a schedule of the complaints received. The complaints broadly related to comments made by members; how correspondence was dealt with by members; and an alleged breach of planning control by a member. None of the complaints were considered by the Assessment Sub-Committee to warrant further action.
- 2.5 The complainants asked that 8 of those decisions be referred to the Review Sub-Committee and the decision of the Assessment Sub-Committee was confirmed on each occasion. In light of the comments made by the Sub-Committees, the Monitoring Officer is to write to all members advising them of the desirability of responding to correspondence and having a system in place to be able to prove that a response had been sent.
- 2.6 Nationally, 50% of complaints are not referred for further action; 29% are referred to the Monitoring Officer for investigation; 15% are referred to the Monitoring Officer for alternative measures and 6% are referred to the Standards Board for England.
- 2.7 The Assessment Sub-Committee and Review Sub-Committee are encouraged to determine complaints or referrals within 20 working days of receipt. The average time taken for the Assessment Sub-Committee to meet to determine complaints is 13 working days which is well within target and compares well with the national average of 20 working days.

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

- 2.8 The Committee at its last meeting reviewed 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, and authorised the Monitoring Officer in consultation with the Director of Human Resources and Change to submit the final response by 24<sup>th</sup> December 2008. A copy of that response is attached at Appendix '3' for information.

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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: 19th January 2008

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### *Annual Governance Statement*

- 2.9 The Annual Governance Statement (AGS) is a formal statement that recognises, records and publishes an authority's governance arrangements. It is designed not only to give an opportunity for authorities to consider the robustness of their governance arrangements, but also provide an accurate representation of arrangements in place during the year and to identify areas where improvement is required.
- 2.10 The Use of Resources key lines of enquiry require that the board or equivalent is responsible for ensuring an adequate system of internal control is in place, and for reviewing and reporting on the effectiveness at least annually in a governance statement (the AGS). The guidance states that the AGS should be an open and honest self-assessment of its performance across all of its activities. It should contain a clear statement of the actions taken, or required, to address areas of concern.
- 2.11 The process used last year, for the preparation of the Council's Annual Governance Statement, is set out at Appendix '4'. The Committee is asked to review this process and recommend its adoption for the preparation of this year's statement.
- 2.12 Last year, as part of this process, Audit Committee asked Standards Committee for assurance regarding the following areas:
- ◆ Whistleblowing
  - ◆ Code of Conduct for Members and staff
- 2.13 In order to provide assurance, all Group Directors and Directors were asked to complete an assurance statement which is attached at Appendix '5'. The statement covers a number of areas including staff, internal control arrangements, and fraud risk assessments.
- 2.14 The Committee is asked to review last year's questionnaire and recommend any changes they feel are required including the addition of any areas/questions in relation to which the Group Directors and Directors should be asked to give assurance.

### *Swindon 'Standards in Partnership' Workshop*

- 2.15 Attached at Appendix '6' is the Key Lines of Enquiry (KLOE) setting out how the Council is to be assessed on its internal governance arrangements and its partnership governance arrangements.
- 2.16 As far as the partnership governance arrangements are concerned, the forthcoming Swindon 'Standards in Partnership' workshop is intended to ascertain the level of confidence stakeholders have in the partnership

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# Ethical Framework Update

Standards Committee

Date: 19th January 2008

arrangements including the standards of conduct of Members and Staff. Further discussions have been held with the Head of Policy, with a view to convening the workshop during March 2009.

## *Parish Council Visits*

- 2.17 Mr Mike Compton (Parish Council Representative) has completed a programme of visits to all Parish Councils in the Borough. This programme has been highlighted in the Council's Use of Resources submission, as an example of notable practice. His report regarding the visits, and any outcomes for the Committee to consider, will be tabled at the meeting.
- 2.18 The visits have resulted in a number of Parish Councils identifying the need for further training on the Members Code of Conduct and the ethical framework. In conjunction with the Parish Clerks, a training session open to all Parish Councillors has been arranged on 22 January 2009 at Hayden Wick Parish Council Offices.

## *Standards Board Publications*

- 2.19 Attached at Appendix '7' is the Standards Board Bulletin Issue 41. This includes:
- ◆ A summary of the Alternative Action Masterclass at this year's Annual Assembly.
  - ◆ A review of the Standards Board's online monitoring system.
  - ◆ Feedback on adjourning local assessment decisions.
- 2.20 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.

## **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.

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: 19th January 2008**

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## **Consultees**

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

## **Background Papers and Appendices**

- Appendix '1' - Use of Resources Notable Practice Submission
- Appendix '2' – A summary of Code of Conduct complaints received under Local Filtering Arrangements.
- Appendix '3' – Council Response to the DCLG Consultation Paper on Members and Employees Codes of Conduct
- Appendix '4' - Flowchart for Approvals Process for the Annual Governance Statement.
- Appendix '5' – Annual Governance Statement - Group Directors and Directors Assurance Statement
- Appendix '6' – Key Lines of Enquiry (KLOE) 2.3
- Appendix '7' - Standards Board Bulletin (Issue 41)

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Capturing improvement	
Use of resources assessment – local government 2008	
Council	Swindon Borough Council
Type:	Unitary
UoR KLOE	4.3
Topic	Probity and propriety in the conduct of its business
Information generated from:	Use of resources assessment 2008 Use of resources assessment 2007
Council contact:	<p>Is the council willing to share this example with auditors appointed by the Audit Commission? YES</p> <p>Is the council willing to share this example with other councils? YES</p> <p>Names: Stephen Taylor      Role: Monitoring Officer  Nick Hobbs                      Role: Head of Internal Audit</p> <p>Tel: 01793 463012      Email: <a href="mailto:staylor@swindon.gov.uk">staylor@swindon.gov.uk</a>  01793 463940      Email: <a href="mailto:nhobbs@swindon.gov.uk">nhobbs@swindon.gov.uk</a></p>
Auditor contact:	<p>Name: Peter Smith                      Role: Audit Manager (Audit Commission)</p> <p>Tel: 07780956715                      Email: <a href="mailto:p-smith@audit-commission.gov.uk">p-smith@audit-commission.gov.uk</a></p>
Please address all questions.	
<b>1. What objective was the council seeking to achieve?</b>	
<ul style="list-style-type: none"> <li>• Demonstrate that its members and staff exhibit high standards of personal conduct</li> <li>• Updating ethical framework</li> <li>• Promotion of high standards of conduct and ethics within the Parishes of Swindon</li> <li>• Track record of effective action in response to whistleblowing disclosures. That there are periodic reviews of the effectiveness of the arrangements, and effective arrangements for receiving and acting upon disclosures from members of the public</li> <li>• Increase and promote awareness of the risk of fraud</li> <li>• Ensure that investigations are carried out to a high standard following best practice</li> <li>• Share experiences of fraud with other authorities to ensure appropriate areas are covered in the audit plan</li> <li>• Learn from and promote best practice</li> </ul>	
<b>2. How did the council go about this?</b>	
<ul style="list-style-type: none"> <li>• Comprehensive induction training programme of members and staff in relation to personal conduct. Reviewed Officer and Member Codes of Conduct. Regular reminders issued to all staff on these issues via the Corporate Core Brief system, and reminders and refresher training given to members of the Borough Council and Parish Councils within the Borough. Reports made to Standards Committee or its Chair, as appropriate, on breaches so that corrective action can be taken. The Leader of the Council and the Chief Executive are very supportive and the Monitoring Officer reports regularly to them on matters of probity and conduct and the Leader has intervened with members where necessary, including suspending a member from the political group on the Council.</li> <li>• A review of the ethical framework was carried out and a local Code of Corporate Governance was introduced.</li> <li>• Best practice is promulgated and information circulated to members via an Ethical Framework Update Report (includes the Standards Board Bulletins) that is reported to Standards Committee.</li> </ul>	

- Participation in a Standards Board for England pilot to give feedback as to how a local filter system could work and to enable members of the Council's Standards Committee to shape the national development of the local filter process.
- Running a workshop facilitated by I&DeA entitled 'Member/Officer partnerships'. The workshop was organised by the Monitoring Officer and Head of Learning and Development in consultation with I&DeA. It was attended by Members and Officers and considered a range of issues relating to Member/Officer relationship with the intention of seeing how more effective working could be achieved.
- Parish Councils were visited by a member of Standards Committee to give a brief introduction to the work of the Standards Committee, to discuss with Parishes how they were 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 to provide, or maintain, high standards of conduct.
- The Monitoring Officer convenes quarterly meetings with Town and Parish Clerks in the Borough and the discussion of the ethical framework is on every agenda. The Monitoring Officer also convenes quarterly meetings with representatives of Parish Councillors within the Borough at which ethics and standards are on the agenda.
- In December 2007 the Council took part in a second pilot testing an on-line submission system being developed by the Standards Board for England to enable a quarterly return from each local authority on complaints received and dealt with under the new arrangements.
- A comprehensive Annual Report was issued by the Standards Committee on its activities during 2007/08 (copy attached).
- The process for completing the Council's first Annual Governance Statement was taken to Standards Committee to establish their involvement in the process.
- Ethical health-check undertaken by Standards Committee in July 2007 and subsequently reviewed. This was informed by the Monitoring Officer who is an I&DeA Monitoring Officer Peer Reviewer and has participated on such health-checks of other authorities and developing best practice.
- The Council's Audit Committee self-assessed against best practice and the Cipfa guidance (toolkit).
- Regular reports and updates are made to every Standards Committee on whistleblowing disclosures, including where disciplinary action has been taken following whistleblowing disclosures. Whistleblowing is promoted via a poster campaign to staff and the public, and whistleblowing information is on the Council's website. The public are aware of whistleblowing procedures and a number of complaints have been received from the public. The Standards Committee has reviewed Anti-Fraud and Whistleblowing policies. These now include a Fraud Response plan and Fraud Awareness training (Standards Committee: July 2007). Regular 1:1 meetings scheduled between the Monitoring Officer and the Head of Internal Audit to review progress on whistleblowing and probity issues.
- The Council has developed 'intouch' which provides the ground rules for the way Members and Officers work within the Council. Intouch provides clear values and behaviours shared across all levels of the organisation.
- The Head of Internal Audit was instrumental in setting up the Heads of Internal Audit West of England Unitary and County Council Fraud Sub-Group and plays a key role in the success of the group.
- Issuing Fraud Bulletins / Alerts (copy attached) – endorsed by Members and Senior Officers i.e. Chair of Standards, Chair of Audit Committee, Lead Cabinet Member for Resources, the Chief Executive and the Group Director: Resources have all written introductions to the bulletin.
- One of the Council's Principal Auditors has been supported through the CIPFA Advanced Professional Certificate in Investigative Practice (APCIP).

### 3. What were the outcomes?

- **Demonstrate that its members and staff exhibit high standards of personal conduct:**
  - The public are aware of the members Code of Conduct and complaints are made on occasion to the Standards Board for England. These complaints are in general not taken further by the Standards Board which illustrates high standards of conduct overall.
  - The Officers Code of Conduct is working well and the section regarding ethics particularly the 'quick guide to making ethical decisions' has proved useful.
  - Members and Officers seek advice from the Monitoring Officer on issues such as declarations of interest.
  - A survey which went to all staff showed that nearly three-quarters of staff felt confident that a whistle-blowing complaint would be taken seriously and that over three-fifths felt safe in making a whistleblowing complaint. Local authorities do not generally obtain this evidence and we will use this information to improve confidence levels and perception as to the importance of high standards of personal conduct. In the same survey more than nine people in ten were aware of the rules on gifts and hospitality.
- **Updating ethical framework:**
  - New Code of Conduct for members and a new Code of Conduct for officers were issued. Other Codes and Protocols were reviewed in light of the changes made to the Code of Conduct for Members.
  - Participation in the Filtering Arrangement Pilots has better equipped the Standards Committee in relation to the implementation of the filter arrangements, and has enabled the Standards Committee to influence how those filter arrangements should be developed nationally.
  - The Audit Committee's self-assessment resulted in amendments to the Committee's terms of reference and the production of an annual report for 2007/08.
  - The development of Intouch (with significant input in the development from both officers and Members, including an online appraisal process ensures that staff and Members are given a consistent steer on behaviours, ethics etc
  - An annual review of the Council's Anti-Fraud and Whistleblowing Policies is undertaken, resulting in:
    - updated policies being presented, to and agreed by, Standards Committee.
    - the production of a Fraud Response plan and fraud awareness guide for managers that are being rolled out via senior management teams.
- **Promotion of high standards of conduct and ethics within the Parishes of Swindon**
  - The visits by a member of the Standards Committee to the Parish Councils have improved contact between the Standards Committee and Parish Councils and have improved working relationships and the awareness of the level of standards required and the need to maintain and improve high ethical standards in the Parishes within Swindon. In that context, training needs have been identified in relation to 3 parishes in particular which have led to a training session being arranged by the Monitoring Officer.
- **Track record of effective action in response to whistleblowing disclosures. That there are periodic reviews of the effectiveness of the arrangements, and effective arrangements for receiving and acting upon disclosures from members of the public**
  - As a result of an allegation made under the Council's whistleblowing policy a now former member of staff is the subject of a criminal prosecution.
  - There are regular updates to each meeting of Standards Committee on current whistleblowing complaints. The arrangements are reviewed annually. Complaints have been from members of the public and from staff as well as a number of anonymous allegations, which are also investigated so far as

circumstances permit.

- **Increase and promote awareness of the risk of fraud**

- Promotion of the whistleblowing policy to staff and the public through a poster campaign. Copies of the poster are on floors of each office and were issued to each Council establishment including libraries and schools.
- Fraud Bulletins (a copy of the March 2008 edition, introduced by the Council's Monitoring Officer is attached) continue to be issued approximately on a quarterly basis.
  - Other authorities have adopted the use of fraud bulletins; particularly the introductions by Members and Senior Officers as best practice and have been an engine of change regionally.
  - issued via the Council's Newsround – emailed to all staff with access to relevant IT. Where there are staff with no access requests are made to print out relevant items.
  - any cases of SBC related fraud are publicised in the bulletin i.e. HB Fraud etc. see page 3 of the March 2008 edition.

- **Ensure that investigations are carried out to a high standard following best practice**

- A Principal Auditor has obtained the Advanced Professional Certificate in Investigative Practice (APCIP) that ensures that Internal Audit follow best practice when undertaking investigations.
- The Head of Internal audit or one of the Principal Auditors manages each investigation ensuring that they are carried out in accordance with relevant legislation and best practice.
- Advice is always sought from the Council's legal team prior to the issue of any disciplinary report.

- **Share experiences of fraud with other authorities to ensure appropriate areas are covered in the audit plan**

- The Head of Internal Audit is the secretary of the Regional Fraud Sub Group which has continued to work well and the benefits include:
  - Joint auditor training on fraud awareness and investigations.
  - Development of a joint training programme on fraud related areas.
  - We have been able to share best practice regarding the issue of Fraud Bulletins being able to demonstrate Member and Senior Officer commitment that has now been adopted by other authorities.
  - Benefiting from guest speakers at the meetings including Nathan Nash (NFI Co-ordinator: Audit Commission), Jeff Jennings (Director: National Anti-Fraud Network).
  - Exchange of information on the level and type of recent frauds/scams that have occurred in individual member's Councils.

- **Learn from and promote best practice**

- Any lessons learned in relation to the member code of conduct are disseminated. The Monitoring Officer is joint author of the 4th and 5th editions of 'Knowles on Local Authority Meetings', which is the leading reference book on the subject, which includes guidance on ethics and standards.
- The participation by the Standards Committee in the Filtering Arrangement pilots enabled the Committee to provide feedback on pilots that was incorporated in the national guidance.
- The Regional Fraud Sub Group exchange best practice and areas of concern that are reflected in the Council's anti-fraud and corruption work such as IT Procurement; e-mail and internet use.



<b>4. List and attach or provide a link to any outputs through which others can learn.</b>
<ul style="list-style-type: none"> <li>• Copies of relevant doc's attached i.e. Annual Standards Committee Report, Fraud Bulletin; Agenda and minutes for Fraud Sub Group; Fraud Awareness Guidance; Fraud Response Plan copies provided.</li> <li>• Revised Code of Conducts for Members and officers are available on the intranet as are the updated Anti-Fraud and Corruption and Whistleblowing Policies, the Standards Committee Annual Report, together with the Agendas and supporting reports.</li> </ul>
<b>5. Is there evidence of value for money improvement?</b>
<ul style="list-style-type: none"> <li>• High standards of conduct should result in less money being spent on investigating complaints of breach of the Member's code of conduct.</li> <li>• The Fraud Response plan should ensure that Internal Audit advice is sought at an early stage – this will ensure that any investigation is completed to the relevant standards in accordance with relevant legislation and best practice. Time will not be wasted or spent inappropriately by managers – the guide sets out the procedures to be followed.</li> </ul>
<b>6. Was there wider impact from the council's action?</b>
<ul style="list-style-type: none"> <li>• The promotion of high standards of conduct and ethics within the Parishes of Swindon.</li> <li>• Ensuring that the Council follows best practice in regard to ethical standards for Members and Officers allowing the public to have confidence in the way that the Council conducts its business.</li> <li>• Investigations have been carried out to a high standard with cases going to and being upheld at disciplinary hearings and progression to Court. In the latter case the Police were happy to rely on statements and evidence provided by the section when presenting their case to the Crown prosecution Service.</li> </ul>

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STANDARDS SCHEDULE							APPENDIX '2'	
No.	Ref No	Date of complaint	Subject	Date of Initial Assessment & Panel	Decision	Date Review received	Date of Review Hearing & Panel	Decision
1	SBC/30(1)/08	13.08.08	Objection to comments made by Councillor at a meeting	05.09.08 K Carby M Fanning M Compton	No further action.	N/A	N/A	N/A
2	SBC/30(2)/08	03.09.08	As above	05.09.08 K Carby M Fanning M Compton	No further action.	N/A	N/A	N/A
3-6	SBC/31/08 (a-d) (related to four individuals)	19.08.08	Allegation that Cllrs did not reply to correspondence	05.09.08 K Carby M Fanning M Compton	No further action.	Yes 16.09.08	16.10.08 T Davies M Duff M Cook	Original decision upheld
7	SBC/32/08	24.08.08	Objection to comments made during a conversation	01.10.08 K Carby M Fanning M Compton	No further action.	Yes 17.10.08	27.10.08 T Davies M Duff M Cook	Original decision upheld

STANDARDS SCHEDULE							APPENDIX '2'		
No.	Ref No	Date of complaint	Subject	Date of Initial Assessment & Panel	Decision	Date Review received	Date of Review Hearing & Panel	Decision	
8-9	SBC/33/08 (Related to two individuals)	06.10.08	Allegation that Cllrs did not reply to correspondence	27.10.08 T Davies M Duff M Cook	No further action.	Yes 05.11.08	10.12.08 P.Morris M.Fanning M.Compton	Original decision upheld	
10	SBC/34/08	01.11.08	Objection re email correspondence sent by Cllr	21.11.08 T Davies M Duff Mike Compton	No further action.	02.12.08	19.12.08 D.Dawson M.Cooke P.Stoddart	Original decision upheld	
11	SBC/35/08	05.11.08	Objection re email correspondence sent by Cllr	21.11.08 T Davies M Duff Mike Compton	No further action.	N/A	N/A	N/A	
12	SBC/36/08	15.11.08	Alleged breaches of planning control	21.11.08 T Davies M Duff Mike Compton	No further action.	N/A	N/A	N/A	

**Communities in control: Real people, real power**  
**Codes of Conduct for Local Authority Members and Employees.**

Response from Swindon Borough Council's Standards Committee to the consultation document:

<b>Question 1</b>	<b>Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?</b>
	Swindon Borough Council's Standards Committee agree with this as all Members should conduct themselves in a manner that does not bring the authority or their office into disrepute.
<b>Question 2</b>	<b>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.</b>
	We disagree with this. The definition should remain as it is now. Fixed penalty offences should not be excluded as these can relate to matters which are not minor criminal offences. The definition also needs to take into account 'conditional cautions' as these can include offences of assault and serious criminal damage of over £1,000.
<b>Question 3</b>	<b>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.</b>
	Yes. We suggest that this be incorporated in the Code otherwise there is a mismatch in wording between the definition as prescribed by the Secretary of State, and the definition set out in the Code.
<b>Question 4</b>	<b>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?</b>
	Yes. Legal systems within other countries can be very different to that within the UK. It would be unfair to penalise a Member for what is considered to be a criminal activity in another country (for example, drinking alcohol) but is not a criminal activity within the UK.
<b>Question 5</b>	<b>Do you agree that an ethical investigation should not proceed until the criminal process has been completed?</b>
	Yes, as this is part of the natural justice process.
<b>Question 6</b>	<b>Do you think that the amendments to the members' code</b>

	<b>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?</b>
	<p>Yes.</p> <p>In addition, the conflict between section 21 of the 2000 Act and paragraphs 11 and 12 of the Code should be resolved to make clear that an executive member can attend Scrutiny Committee to answer questions relating to that portfolio.</p> <p>Further, Swindon Borough Council has recently had an instance that at a meeting of its Cabinet, a proposal was discussed to close a school and for a local Academy to be expanded to run the school proposed for closure. At the meeting, the Lead Member for Children Services had to declare a prejudicial interest and not take part due to the fact he is a governor of the Academy to which he had been nominated by the council.</p> <p>It seems unreasonable to the Standards Committee that a council nominee on an outside body should not be able to make representations, answer questions or give evidence, even if members of the public do not have that same right. Accordingly, it is suggested that the words 'or where you are a council appointment or nominee on an outside body which is the subject matter of the business being discussed' be added to end of paragraph 12(2) of the Code.</p>
<b>Question 7</b>	<b>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?</b>
	No
<b>Question 8</b>	<b>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.</b>
	No
<b>Question 9</b>	<b>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?</b>
	Yes
<b>Question 10</b>	<b>Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?</b>
	Yes
<b>Question 11</b>	<b>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</b>

	<b>differently?</b>
	No, for the reasons set out in the response to question 2, above.
<b>Question 12</b>	<b>Do you agree with this definition of ‘official capacity’ for the purpose of the General Principles Order?</b>
	Yes

Model code of conduct for local government employees:

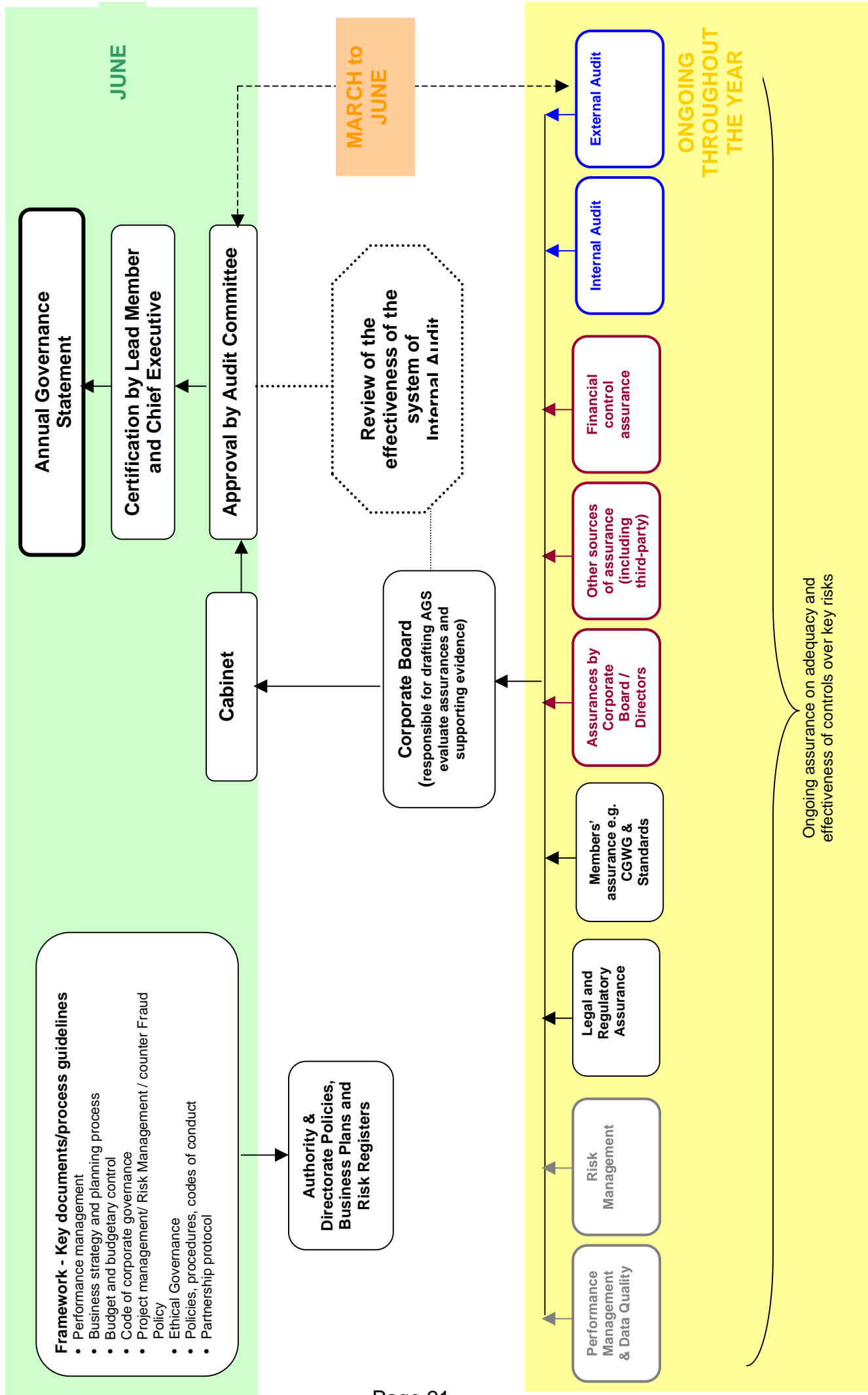
<b>Question 13</b>	<b>Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees’ terms and conditions of employment, is needed?</b>
	There should be a requirement to have a Code but there is no need to specify what it should contain. That should be a matter for local discretion. Swindon Borough Council in common with many other authorities already have a code that is part of the terms and conditions of employment.
<b>Question 14</b>	<b>Should we apply the employees’ code to firefighters, teachers, community support officers, and solicitors?</b>
	No, for the reasons set out in the Consultation document.
<b>Question 15</b>	<b>Are there any other categories of employee in respect of whom it is not necessary to apply the code?</b>
	No
<b>Question 16</b>	<b>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?</b>
	We are not aware of anything else that should be included or omitted.
<b>Question 17</b>	<b>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?</b>
	Qualifying employees should be selected using the delegation model, and not the political restriction model as relatively junior employees could be included in the latter category. The important issue is one of accountability for decisions made and that relates more particularly to the delegation model.
<b>Question 18</b>	<b>Should the code contain a requirement for qualifying employees to publicly register any interests?</b>
	Yes – but only where there is a conflict between the

	employee's interest and the 'day job'.
<b>Question 19</b>	<b>Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?</b>
	The Standards Committee consider that those interests set out in bullet points 1 and 3 listed in the Consultation document should be included but not those set out in bullet points 2 and 4 unless there is a conflict of interest as referred to in question 18, above .
<b>Question 20</b>	<b>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?</b>
	Pertinent aspects have been captured.
<b>Question 21</b>	<b>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?</b>
	Too many restrictions are placed by the proposed employees code.
<b>Question 22</b>	<b>Should the employees' code extend to employees of parish councils?</b>
	No



# ANNUAL GOVERNANCE STATEMENT FRAMEWORK (FLOWCHART)

APPENDIX '4'



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**Directors' Assurance Statements - Questionnaires**

**Please complete the questionnaire and return it to Nick Hobbs (Head of Internal Audit, Wat Tyler West 3<sup>rd</sup> Floor)) by Monday 19<sup>th</sup> May 2008.**

<b>1. Policy and Decision Making</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
1.1	Have Corporate and Service policies been disseminated effectively to your staff?		
1.2	Have all decisions in your directorate been made through proper process in accordance with the Council's constitution?		
1.3	Have strategic or key decisions been properly documented and taken after fully considering risk and Resourcing implications?		
1.4	Have corporate priorities and policies been reflected in your Directorate Business Plan?		
1.5	Have your service policies been properly approved in accordance with the Council's constitution?		

<b>2. Service Delivery</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
2.1	Have departmental priorities been identified and reflected in: <ul style="list-style-type: none"> <li>• Service business plans?</li> <li>• Performance indicator targets?</li> <li>• Individual targets detailed in appraisals?</li> <li>• Budget/Medium term financial plan?</li> </ul>		
2.2	Priorities are informed by appropriate consultation, including customers and the Corporate Plan.		
2.3	Have priorities been communicated within the department?		
2.4	Are Business Plans in place for all Business Units?		
2.5	Have critical and priority services been identified and business continuity plans been developed and approved for these?		If yes, please state your critical and priority services
2.6	Are the business continuity plans in the above areas regularly reviewed and tested?		
2.7	Are all statutory obligations been provided in your service area and has all legislation been complied with?		
2.8	Are delegated powers sufficient for the needs of the service?		

<b>3. Strategic and Operational Risk Management</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
3.1	Do you liaise with your Group Director risk management representative who can feed issues into meetings of the Corporate Risk Management Group and report back on Corporate initiatives?		
3.2	Do you have Departmental and Business Units risk registers?		
3.3	Do the risk registers include consideration of all types of risk including fraud risks, partnership risks and opportunity risks?		If yes, please provide evidence of key fraud risks identified in your department.
3.4	Are the Departmental and Business Units risk registers reviewed and updated at least quarterly?		
3.5	Have risk owners been allocated to all key risks identified to ensure appropriate actions are taken to manage and monitor the risks?		
3.6	Have the risks for significant partnerships been considered, documented and monitored? (see also 5.5 below)		

<b>4. Performance Management</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
4.1	Have key performance indicators have been established and is progress monitored and regularly reported to the Group's senior management team, Corporate Board and Executive Member?		
4.2	Have robust systems and clear responsibility for monitoring each PI have been established to provide accurate and timely performance information?		
4.3	Have any of the Department's BVPIs been reserved by the Council's External Auditor?		
4.4	Do the key or local indicators indicate significant performance issues?		If yes, please detail.
4.5	Are the number and type of complaint/comment received by the department monitored and regularly reviewed?		
4.6	Are issues arising from Ombudsman's investigations prioritised and regularly reviewed?		

## APPENDIX 5

Partnerships with other public bodies, voluntary and community organisations involving funding of over £50,000pa.			
5.	No.	Key area	Yes/No
		Comment / Evidence	
5.1		List all said partnerships currently operated within your department?	
5.2		Do you have assurance that there are effective financial and governance arrangements in place for these partnerships?	
5.3		Do you have assurance that partners, staff and other stakeholders understand the respective partnership roles and responsibilities?	
5.4		Is an exit strategy in place for each significant partnership and has this been fully documented?	
5.5		Do you have assurance that Departmental / Business Risk Registers adequately record partnership risks and where appropriate that the partners are actively involved in the risk management process? (see also 3.6 above)	

<b>Finance and Asset Management</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
6.1	Was a budget set for your Department that was aligned to your business plan?		
6.2	Has clear responsibility been assigned for all budgets within your Directorate?		
6.3	Have individual managers with the responsibility for budgets received appropriate financial training?		
6.4	Do you have assurance that all relevant staff in your Department are aware of and have access to the Council's Financial Regulations, Contract Standing Orders and other Departmental specific financial procedures/guidance?		
6.5	Do you have assurance that all relevant staff in your Department have received appropriate training in finance including how to use the Council's financial systems?		
6.6	Have any significant virements (budget variations) between budget heads been properly approved?		
6.7	Are all fees and charges regularly reviewed and are invoices raised promptly?		
6.8	Have estimated efficiency savings been identified and agreed with relevant managers to ensure that the required level of efficiency savings can be made?		
6.9	Is the progress towards achievement of these efficiency savings monitored and appropriately evidenced to support the delivery of your Department's budget and Council's Annual Efficiency Statement?		



## APPENDIX 5

6. Finance and Asset Management cont.				
No.	Key area	Yes/No	Comment / Evidence	
6.10	Have service area asset management plans been prepared and are they reviewed regularly?			
6.11	Are asset registers and inventories maintained in compliance with guidance?			

<b>7. Staff.</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
7.1	Do you have assurance that the expected standards of behaviour of staff and of Councillors (e.g. Employees Code of Conduct and Member/Officer Protocol) have been communicated to all staff?		
7.2	Do all staff have up-to-date Job Descriptions and agreed development plans (using the Council's appraisal system)?		
7.3	Are all individuals working for your department remunerated through the Council's payroll system, or the Council's creditor system (following an assessment of the individual's employment status)?		
7.4	Do recruitment procedures include pre-employment checks to assess suitability for the job include: <ul style="list-style-type: none"> <li>• CRB checks for posts involving children or vulnerable adults?</li> <li>• Required qualifications are retained?</li> <li>• Previous employment references?</li> <li>• Work permit/right to work in the UK checks?</li> </ul>		
7.5	Is all staff sickness reported in accordance with Council Policy i.e. through HR First Response?		
7.6	Are you and your staff aware of the Council's rules relating to declaration of interests, and acceptance of gifts and hospitality?		
7.7	Do you have significant concerns that your Department is unable to recruit/retain staff with the required skills to provide services?		
7.8	Have all staff been properly inducted?		

8. Information Governance.			
No.	Key area	Yes/No	Comment / Evidence
8.1	Do have confidence that robust arrangements are in place to monitor compliance with Freedom of Information and Data Protection legislation?		
8.2	Have all staff been trained in use of relevant IT systems?		
8.3	Do all staff have unique access to IT systems and that their access is commensurate with their duties?		
8.4	Are you satisfied that all staff and consultants (that you were responsible for) that have left the employment of your Department during 2007/08 have been removed from accessing Council IT systems?		
8.5	Are staff in your Department aware of policies in relation to the use of Council equipment and systems (e.g. IT Security Policy, internet and e-mail policy, phone usage)?		

<b>9. Control Environment.</b>			
<b>No.</b>	<b>Key area</b>	<b>Yes/No</b>	<b>Comment / Evidence</b>
9.1	In 2007/08, within your Directorate, have there been any breaches of security or fraud resulting in loss of Council assets or injury to staff?		
9.2	Have all agreed Internal Audit recommendations relating to your Department been implemented, or will be by the agreed implementation date?		
9.3	Have all key systems and operations within your Directorate been documented?		
9.4	Have all frauds and financial irregularities identified been referred to Internal Audit in accordance with the Anti Fraud and Corruption Strategy and Fraud Response Plan?		
9.5	Have all breaches of in Standing Orders been reported to the Council's Monitoring Officer?		
9.6	Has the annual audit plan been considered by the Group Directorate SMT?		
9.7	Please provide details of all external inspection reports carried out in your Department during 2007/08 and details of any significant weaknesses identified.		

**10. Significant Control and Governance Issues.**

Please identify here any issues that you feel represent a significant control item or governance issue. Guidance issued by CIPFA in relation to what should be considered 'significant', for inclusion in the Council's Annual Governance Statement, may be those which:

- Have seriously prejudiced or prevented achievement of a principle objective
- Has resulted in the need to seek additional funding to allow it to be resolved
- Required a significant diversion of resources
- Has had a material impact on the accounts
- The Audit Committee has advised that it should be considered as significant
- Has resulted in significant public interest or has seriously damaged reputation
- Has resulted in formal actions being taken by the Chief Financial Officer or Monitoring Officer
- Received significant adverse commentary in external; inspection reports that has not been able to be addressed in a timely manner

The above is only guidance and not an exhaustive list.

I confirm that this document provides a fair reflection of the system of internal control and governance arrangements operating within my Directorate since 1<sup>st</sup> April 2007.

**Name of Group Director / Director:** .....

**Signature:**.....

**Date:**.....

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## KLOE 2.3

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### Does the organisation promote and demonstrate the principles and values of good governance?

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#### KLOE focus

The organisation:

- has adopted, promotes and demonstrates, the principles of good governance;
- maintains focus on its purpose and vision;
- demonstrates a strong ethical framework and culture; and
- applies the principles and values of good governance to its partnership working.

Why is this important?

Good governance is essential to ensure public bodies are meeting the needs of their users and are developing their community leadership role. Poor governance, especially where public bodies are working in complex partnerships, will adversely impact on effectiveness and lead to poorer public services and loss of public confidence.

The Audit Commission report [Corporate Governance: Improvement and trust in local public services](#) noted that there are two main areas affecting public confidence and trust:

- the quality of services that individuals and their families receive; and
- how open and honest bodies are about performance, including their willingness to admit to and learn from mistakes.

In general, the public does not rate public bodies highly on the second of these. Only one in eight believes their local hospital, council or police service always admits when it makes a mistake, and only one in four believes these organisations learn from the mistakes they make.

The Audit Commission defines good governance as 'ensuring an organisation is doing the right things, in the right way, for the right people in a timely, inclusive, open, honest and accountable manner'.

The approach to governance under the use of resources assessment draws on the six principles of good governance from the [Good governance standard for public services](#) published in 2004 by the Independent Commission for Good Governance in Public Services. The six principles of good governance are:

1. Focusing on the organisation's purpose and on outcomes for citizens and service users.
2. Performing effectively in clearly defined functions and roles.
3. Promoting values for the whole organisation and demonstrating the values of good governance through behaviour.
4. Taking informed, transparent decisions and managing risk.
5. Developing the capacity and capability of the governing body to be effective.
6. Engaging stakeholders and making accountability real.

KLOE 2.3 focuses on principles 1, 2, 3, and 5. Principles 4 and 6 are addressed elsewhere in the use of resources framework.

#### Sector guidance

[Local government](#)

[Primary care trusts](#)

[Police](#)

[Fire](#)

**APPENDIX '6'**[Home](#) > [Section 8: KLOE Guidance](#) > [KLOE 2.3](#) > Local government

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## Local government

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### Sector context

The CIPFA/SOLACE governance framework was revised and reissued in June 2007. It takes the six principles from the [Good governance standard for public services](#), published by the Independent Commission for Good Governance in Public Services in 2004, and adapts them for the local government context. The framework also includes best practice objectives that provide the basis for councils to develop and maintain a local code of governance reflecting its type, size, functions and nature. The framework also introduced the requirement to produce an annual governance statement from 2007/08 to replace the statement on internal control (SIC).

There are a number of changes to the standards framework for councils which became effective from May 2008. Local standards committees will now deal with most complaints about member behaviour, rather than the Standards Board for England (SBE). The SBE will be responsible for monitoring and ensuring the effectiveness of local arrangements, including supporting councils which are experiencing difficulties, and driving up their performance. The Audit Commission is currently agreeing a Memorandum of Understanding with the SBE which sets out arrangements for sharing information.

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### What might you expect to see?

#### Principles of good governance

##### What's this about?

This links to the six principles of good governance in the CIPFA/SOLACE framework, and specifically addresses principles 2 and 5:

- members and officers working together to achieve a common purpose with clearly defined functions and roles; and
- developing the capacity and capability of members and officers to be effective.

Working well as an organisation involves effective leadership throughout the council and being clear about what are executive, non-executive and scrutiny functions, and the respective roles and responsibilities. Productive working relationships between members and officers are crucial. Also, positive relationships between the council, its partners and the local community, including the third sector, must be clear so each knows what to expect of the other and what to do when things go wrong.

Councils need people with the right skills and knowledge to direct and control them effectively and bring about public confidence. Governance roles and responsibilities in the local government environment are challenging and the council's leadership (members and the corporate management team) need the right skills and support to help them perform effectively in their roles. Assessing skills gaps, providing induction programmes, training and development opportunities, and regular performance review for members and the corporate management team are all important in building and supporting a strong governance environment.

##### Getting the basics right – what might you expect to see?

The council publishes a document which clearly describes the individual roles and responsibilities of:

- the leader of the council or elected mayor;
- the executive and executive members individually;
- other council members;



## APPENDIX '6'

- the scrutiny function; and
- the chief executive and senior officers.

This information usually forms part of the council's constitution. The constitution will also include a scheme of delegation and reserve powers, including a formal schedule of those matters specifically reserved for collective decision of the council. This also takes account of relevant legislation. The council reviews and updates the document as needed.

There are constructive working relationships between members, the corporate management team and staff. Members and senior officers receive a thorough induction tailored to their role in the council, including when they take on new roles. The council provides a full range of development opportunities for members and the corporate management team, including training. It supports members to identify and address their own development needs.

### **Performs well - what else might you expect to see?**

The council can demonstrate that members and senior officers are clear about their and each other's respective roles. The council regularly reviews member and senior officer roles and responsibilities to ensure they are coherent, comprehensive and continue to focus on delivering the purpose and priorities of the council.

The council equips members and senior officers to carry out their roles and responsibilities. For example, the council uses individual personal development plans for members that identify skill gaps and inform the training plans for the year ahead. The take up of training and development opportunities by members is high, including for long-standing members. The council collects feedback about how effective members and senior officers consider training and development opportunities to be and acts on the results.

## **Purpose and vision**

### **What's this about?**

The purpose of governance is to ensure councils and their partnerships fulfil their purpose and achieve intended outcomes for the local community while operating in an economic, efficient, effective and ethical manner. This concept should guide all governance activity. Councils need to develop a clear vision of their purpose and intended outcomes for the local community and clearly communicate this both within the organisation and to external stakeholders.

Poor governance can be a distraction from what's important and result in the council being inwardly focused, rather than outwardly focused on the delivery of quality services and achieving better community outcomes.

### **Getting the basics right – what might you expect to see?**

The council's leadership has a vision of what it wants to achieve for its local communities, founded on a robust assessment of local needs and is committed to engaging with stakeholders and local people, including minority and vulnerable groups.

The council translates this vision into ambitions and clear strategic priorities that drive the business.

### **Performs well - what else might you expect to see?**

The council's culture is open and outward facing with a clear focus on the needs of local communities. The leadership maintains focus on delivering the organisation's strategic priorities and is not distracted by internal disputes. There are excellent working relationships between members and senior officers, particularly in the key roles of leader and chief executive, and evidence that this translates into the delivery of priorities for local communities.

## **Ethical framework and culture**

### **What's this about?**

Ethical governance refers to the processes, procedures, culture and values which ensure high standards of behaviour. Ethical governance is recognised as a key element of good governance in the CIPFA/SOLACE Good Governance Framework.

## APPENDIX '6'

A key benefit of good ethical governance is that a council which gets its roles and relationships right in an ethical sense is more likely to be well run and effective in helping to improve services and the quality of life for its local residents. The ultimate outcome is therefore better outcomes for local people and maintaining their confidence in the council.

### Getting the basics right – what might you expect to see?

The council has adopted codes of conduct for its members and staff. It has arrangements to receive and investigate allegations of breaches of proper standards of conduct. All council members sign the code of conduct. There is currently no statutory code for staff, but some councils may have codes, for example, within contracts of employment.

The standards committee is effective in its role for overseeing compliance with the code of conduct. It has three roles in relation to complaints about member conduct:

- receiving and assessing complaints;
- reviewing local assessment decisions; and
- conducting hearings following investigation.

The monitoring officer is required to report case related information and information on the make up of the standards committee to the Standards Board for England (SBE) on a quarterly basis. The standards committee is also required to provide information on the council's ethical governance arrangements to the Standards Board annually.

**Note: auditors are asked to share their audit findings with the SBE if they have any concerns that relevant information isn't being reported by the council. The SBE will also share information with auditors.**

The council can demonstrate that the leadership sets the tone by creating a climate of openness, support and respect, promotes a strong ethical culture and upholds the values of good governance. The leader of the council and the chief executive are recognised as good role models and known to proactively promote the ethical agenda, both inside and outside the council. The standards committee advises the leadership on how it can impact positively on staff and public confidence and trust in the organisation.

The council monitors compliance with its codes and procedures, and reports the findings and any action taken, to the whole council. These include:

- codes of conduct;
- registers of interests, gifts and hospitality;
- code of practice for IT resources;
- standing orders and financial regulations; and
- procurement procedures.

Members declare personal and prejudicial interests and gifts and hospitality in public registers. It is good practice for these to be publicly available through the council's website. **Note: auditors may use this evidence to inform judgements on KLOE 2.4.**

The council clearly communicates and makes accessible its complaints procedure to the public and its whistle blowing policies and arrangements to council staff, and ensures that the arrangements are transparent and accessible both inside and outside the council (for example, to the public, partners, contractors and other stakeholders). The council engenders confidence in the complaints and whistle blowing processes by, for example:

- dealing appropriately with complaints and whistle blowing concerns; and
- learning from the issues raised and making changes as a result.

### Performs well - what else might you expect to see?

The council is proactively raising standards of ethical conduct, for example through providing ethics training, guidance and information. Training is well attended by members, including long-standing members. Poor attendance can indicate a lack of understanding of the importance of the ethical agenda. The council communicates progress made in developing the ethical environment to stakeholders and to local people and communities.

## APPENDIX '6'

The council can demonstrate it embeds a strong ethical culture and members and staff understand the importance and impact of the ethical agenda and their responsibilities to protect the council, its resources and reputation. The council proactively disseminates information to staff, local people and communities that highlights the importance of the ethical agenda and in particular the importance of maintaining high standards of conduct within the council to ensure probity. Members and staff have high levels of awareness of, and confidence in, the whistle blowing arrangements. The standards committee is outward facing and works to ensure that both its partners and the public have awareness of the local standards framework for example, a webpage explaining the role of the standards committee and how to make a complaint. The council has assessed the risks associated with the local determination of cases brought against members and has effective arrangements in place to manage any consequences, including any potential negative impact on the reputation of the council.

### Partnership governance

#### What's this about?

A partnership is an agreement to work collectively between two or more independent bodies to achieve a common objective. More effective partnership working is becoming essential across the public sector, not only to deliver services but to help shape places in local areas.

Governance and management issues are more complex for a partnership than an individual organisation and it is therefore important that councils:

- understand and practise the style of leadership that is effective in a partnership context;
- engage effectively with all partners and with service users and local communities; and
- create clarity about roles, relationships, accountability and responsibility of partners.

Partnerships vary in their structure and legal form, for example a partnership may be a limited company or unincorporated association. They often adopt a constitution and a memorandum of understanding or terms of reference as a governing document. The varying objectives, legal forms and membership found in partnerships makes it impossible to apply a one-size-fits-all model of partnership governance and the arrangements should therefore be proportional to the responsibilities and risks of the partnership.

The annual governance statement requires councils to report on their governance arrangements regarding partnerships and other group working. The arrangements should incorporate good practice as identified by the Audit Commission's 2005 report [Governing Partnerships: Bridging the accountability Gap](#) and should be reflected in the council's overall governance arrangements. Examples of good practice include knowing the partnerships they are involved in, and how much money and other resources they invest in them; reviewing each partnership to strengthen accountability, manage risks and rationalise working arrangements; agreeing and regularly reviewing protocols and governing documents with all partners; and establishing clear criteria against which partnerships can be evaluated to determine that they help to achieve partners' corporate objectives cost-effectively.

#### Getting the basics right – what might you expect to see?

The council ensures each of its significant partnerships has an appropriate form of governance that is formally documented. The document sets out the legal status, accountabilities, decision making processes, and roles and responsibilities of the partnership. The partnership objectives focus on achieving better outcomes for local people.

There are constructive working relationships between the council and its partnerships, including ensuring appropriate information is shared with partners in a timely manner. Each of the council's key partnerships has effective procedures for resolving disputes and these procedures are followed when needed. It makes an effective contribution to its LSP.

#### Performs well - what else might you expect to see?

The council can demonstrate that stakeholders and local people have confidence in the organisation's partnerships, including the standards of conduct of members and staff, and have

## APPENDIX '6'

confidence in its partnership governance arrangements. The council regularly reviews the effectiveness of its partnership working and can demonstrate that partnerships are providing effective outcomes and value for money.

The council has signed a locality-wide, agreement governing its relations with voluntary and community organisations (where appropriate). The agreement clearly sets out roles and responsibilities of each partner and their contribution to delivering better outcomes for local people.

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### Sources of evidence

The following list provides examples of potential sources of evidence. The list is not exhaustive and auditors may draw on other sources of evidence, reflecting local circumstances, to support their judgements on this KLOE.

- Council constitution.
- Scheme of delegation.
- Local code of governance.
- Annual Governance Statement.
- Members induction programme, training and development plans, and performance management arrangements.
- Quarterly and annual returns to the Standards Board for England (providing information on progress with local assessment of any potential breaches of the code of conduct for members, and ethical governance arrangements).
- Strategic plan.
- Sustainable community strategy.
- Local citizen or residents' surveys which measure confidence in local public bodies.
- Ethical governance audit and self-assessment survey

### Links to 2007/08 use of resources assessments

Where possible, auditors should bring forward evidence from the following KLOE assessed in 2007/08 to support judgements made on this KLOE:

- KLOE 4.2 – the council has arrangements in place to maintain a sound system of internal control; and
- KLOE 4.3 – the council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business.

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### Reference material and further information

[The Good Governance Standard for Public Services](#), OPM and CIPFA, 2004, produced by the Independent Commission on Good Governance in Public Services, sets out six core principles of good governance for public service organisations. It shows how these should be applied if organisations are to live up to the Standard and provides a basis for the public to challenge sub-standard governance.

The CIPFA/SOLACE framework, [Delivering good governance in local government](#), and accompanying [Guidance note](#), CIPFA, 2007, aims to help local government bodies to review their governance arrangements and interpret the overarching principles and terminology of the framework in a way appropriate to the structure and role of the governing body, and legislative and constitutional arrangements.

The [Standards Board for England](#) provides an independent, national overview of how local councils promote and improve the ethical behaviour of their members. They produce resources and guidance to assist councils in interpreting the Code of Conduct, and on how to deal with complaints about members.

**APPENDIX '6'**

[Public concern at work](#) is a whistle-blowing charity which offers free, confidential advice to people concerned about crime, danger or wrongdoing at work and helps organisations to deliver and demonstrate good governance.

The Governance section of the [Improvement Network](#) provides links to diagnostic tools to assess governance, case studies on how to improve governance and other guidance.

The [Ethical Governance Toolkit](#), produced with input from IDeA, the Audit Commission and the Standards Board, enables councils to identify how well they are meeting the ethical agenda, where they can make improvements, how to ensure that high standards of ethical governance are maintained.

[Corporate Governance: Improvement and trust in local public services](#), Audit Commission, 2003, is a report on the contribution that corporate governance makes to the quality of public services, for better or worse. It builds on the interest in the private sector in investigating the positive contribution that corporate governance arrangements make to profit and greater trust.

[Governing Partnerships: Bridging the accountability gap](#), Audit Commission, 2005, covers governance and accountability arrangements in partnerships. The report is primarily intended to be of practical help to those involved in partnerships and includes a checklist of questions that all public bodies should ask themselves about their partnerships.

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## Contents

### Page 2

Consultation on proposals for changes to the Code

New regulations laid before Parliament

### Page 3

What's the alternative?

### Page 4

Annual Assembly materials online

Introducing the annual return

### Page 5

Feedback on adjourning local assessment decisions

References to the Adjudication Panel for England by a standards committee

### Page 6

Review of online monitoring system

Six councils achieve top standards

### Page 7

Governance and partnerships – work with Manchester City Council

### Page 8

Complaints about standards committees: Role of the Local Government Ombudsmen

NALC 'Stepping Stones' regional conferences

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Welcome to Issue 41 of the *Bulletin*.

The local government ethical framework has changed a great deal this year.

The standards agenda is now successfully embedded at the local level, with standards committees taking responsibility for the initial assessment of Code of Conduct complaints. Local case handling is in place for all complaints except for those the Standards Board has taken back in the public interest. Your commitment and hard work has ensured that the transition to the locally-based system has been smooth and successful.

In this, our final Bulletin of the year, we look back – with a review of the Standards Board's online monitoring system, and feedback from the Seventh Annual Assembly of Standards Committees. And we reveal the high performing authorities shortlisted for the Standards and Ethics category at the Local Government Chronicle Awards 2009.

We also look forward – at the new authority annual return that forms part of the Standards Board's online monitoring system, and to the forthcoming amendments to the Code currently under consultation by Communities and Local Government. In addition, we examine the work on governance and partnerships that the Standards Board is undertaking to help us provide guidance to authorities on ensuring high standards of conduct in partnerships.

Other articles in this *Bulletin* address some key issues arising from the first few months of local case handling. These include a summary of the submissions received in response to *Bulletin 40's* request for views on adjourning local assessment decisions.

Finally, I wish you all the very best for 2009.



Glenys Stacey  
Chief Executive

## **Consultation on proposals for changes to the Code**

Communities and Local Government (CLG) launched a Code consultation in October 2008. The consultation is on CLG proposals for changes to the Code of Conduct for members and the introduction of a model code for local government employees.

In the 2006 ruling in *Livingstone v Adjudication Panel for England*, the High Court decided that Section 52 of the Local Government Act 2000 required members to comply with the Code in their official capacity only, and that it could not govern the private conduct of members.

In issuing his judgement in the *Livingstone* case, Collins J invited Parliament to be explicit about whether it wanted private conduct to be covered by the members' code. Parliament took this opportunity and passed the Local Government and Public Involvement in Health Act 2007. The 2007 Act amended the 2000 Act to allow for the application of the members' Code to cover some conduct in a private capacity, where this has led to a criminal conviction.

The Standards Board for England supports CLG proposals for the new Code for members to cover the conduct of members in their non-official capacity, where that conduct would be a criminal offence. It is proposed that a 'criminal offence' shall be defined as any criminal offence which has led to a conviction in a criminal court, but for which the member does not have the option of paying a fixed penalty notice.

We have also made a number of suggestions for changes to the drafting of the Code, which we believe will make it easier to interpret and apply.

The Standards Board has long advocated the introduction of a standardised national officers' code, and supports CLG's proposals to do so.

The proposed model code is likely to operate a 'two tier' approach. Broadly speaking, the first tier would apply to all local government officers, and would be similar to the general obligations that members have under part one of the current members' Code. The second tier, which would include obligations to register and declare interests, would either apply to officers who are delegated to discharge functions on behalf of the authority or those in politically restricted roles.

CLG proposes that any code for officers should extend to officers of parish councils. We strongly believe that the code should be extended to employees of parish councils.

We recognise that this may be seen as overly bureaucratic for small parishes. However, they are a key component of local democracy and some of the more difficult cases that the Standards Board has dealt with in the past have involved issues with the clerk's conduct.

The consultation document can be found at [www.communities.gov.uk](http://www.communities.gov.uk). Anyone wishing to respond to the consultation – and we would urge you to do so – must respond by 24 December 2008. A copy of our response will be available on our website once it has been submitted.

## **New regulations laid before Parliament**

On 18 November 2008, the Case Tribunals (England) Regulations 2008 were laid before Parliament. These complement the Standards Committee (England) Regulations 2008 and make provision about the sanctions available to a case tribunal of the Adjudication Panel for England. They will come into force on 12 December 2008.

In particular, these regulations ensure that from 12 December, case tribunals will have the power to censure a member, require them to apologise, attend training, or enter into a process of



conciliation. These sanctions are currently available only to councils' standards committees. Making these sanctions available to case tribunals will allow them to deal proportionately with cases that are referred to them, for example, because they are seen as very serious, but which the tribunals conclude are not so serious. It will also enable tribunals to deal appropriately with cases referred to them because a standards committee is conflicted out.

The regulations also make provision about certain administrative procedures to be followed in relation to cases before the Adjudication Panel and its case tribunals.

The regulations are available from the website of the Office of Public Sector Information, at: <http://www.opsi.gov.uk>.

The government intends to complete its reform of the standards framework in January 2009 by making further regulations following consultation, which will allow councils to establish joint standards committees. These regulations will also enable the Standards Board to suspend a standards committee's powers to assess Code of Conduct allegations, in certain circumstances where we consider this to be in the public interest. They will also revise the existing dispensation regulations.

## What's the alternative?

Delegates were given advice on how to use alternative action appropriately at this year's Annual Assembly of Standards Committees, held in Birmingham.

The **Alternative Action Masterclass** considered the advantages of using alternative action when appropriate and also discussed its potential challenges.

Referral to a monitoring officer for alternative action (or other action) is an option open to an

assessment sub-committee when considering a new complaint or complaints – though it must consult its monitoring officer before doing this. Alternative action is a useful tool in specific circumstances where the allegations being made may be symptomatic of systemic problems within the council, which are more significant than the allegations in themselves.

In such cases, the assessment sub-committee needs to be satisfied that even if the specific allegation had occurred as alleged, it would not be in the public interest to investigate with a view to sanctioning. The assessment sub-committee must also be satisfied that other action could assist the proper functioning of the council. If alternative action is used, there is no investigation, no findings of fact and consequently there should be no conclusions drawn about whether members have complied with the Code of Conduct.

Delegates at the Annual Assembly were given examples of situations where alternative action might be appropriate. These included where there is evidence of poor understanding of the Code. They also included situations where there has been a breakdown of relationships within a council to such an extent that it becomes difficult to conduct the business of the council.

Speakers mentioned that if the assessment sub-committee decides on alternative action, then all involved in the process will need to understand that the purpose of alternative action is not to find out whether the member breached the Code. It is not appropriate for the assessment sub-committee to suggest an apology as a satisfactory form of alternative action. This implies that there has been a breach of the Code without there having been an investigation. Rather, the decision is made as an alternative to investigation. In addition, the purpose of using alternative action should be made clear, as should the time when the action is concluded.

Standards committees were told that once alternative action is initiated, they cannot go back and ask the monitoring officer to conduct an investigation. Furthermore, it should be seen as a way of moving forward constructively, rather than reiterating issues that have caused conflicts in the past.

Speakers advised delegates of the potential limitations of using alternative action – especially that it should not be seen as a ‘quick fix’. It is not always a cheaper substitute for investigation and requires resources for training, mediation and other steps that could be carried out.

During a Q&A session, perceived disadvantages of alternative action were highlighted. These include the feeling among those involved that their issues may have been “swept under the carpet”.

For more information on alternative action, please refer to our *Local Assessment of Complaints* and *Local investigations and Other Action guidance*, which are available on our website.

## Annual Assembly materials online

More than 800 delegates attended the Standards Board’s Seventh Annual Assembly of Standards Committees. Delegate feedback has been extremely positive.

The presentations and handouts from the event are available from [www.annualassembly.co.uk](http://www.annualassembly.co.uk). We are also developing a web version of the materials from the popular **Planning Ahead** session, which will be available on our website from December.

The Eighth Annual Assembly will be held on 12 and 13 October 2009 and we are currently establishing the steering committee for the event. The committee will help us to develop ideas for session content and generate examples of best practice to share with delegates.

## Introducing the annual return

The Standards Board for England will be collecting information from standards committees on their activities and on their arrangements for supporting ethical conduct each year, starting in April 2009.

This information will enable us to drive up the performance of standards committees and of ethical conduct generally by identifying and then sharing notable practice. We will also be able to identify and offer support to those authorities experiencing problems.

The annual return will complement the quarterly return. Maintaining an ethical environment not only requires processes and protocols, such as codes of ethics, but also a culture that supports them. Therefore, while the quarterly return for the most part focuses on case handling, the annual return will collect information that will allow us to understand the culture and wider ethical governance arrangements in authorities.

As well as drawing on existing research, we have also been consulting with several groups of monitoring officers and chairs of standards committees for their thoughts on what information we should request.

We are now developing the specific questions that will make up the annual return. In the meantime, we will be undertaking further consultation and piloting to ensure that we get these questions right.

For further information about the annual return, please contact Hannah Pearson, Research and Policy Adviser: **0161 817 5417** or email [hannah.pearson@standardsboard.gov.uk](mailto:hannah.pearson@standardsboard.gov.uk).

## Feedback on adjourning local assessment decisions

In *Bulletin 40* we produced an article about adjourning local assessment decisions to seek cooperation with other action from the subject member. We invited your views on what you think should constitute the most appropriate practice. A total of 29 authorities responded to this article. We would like to thank those who participated.

Of the responses received, 14 were strongly against adjournment and eight were in favour. In addition, three authorities felt that the alternative suggested in the article would be preferable. The alternative suggested was that when the standards committee sends the case for investigation, it lets the monitoring officer know that it might not consider the case to be as serious, if the member is willing to comply with other action. This would mean that if the member indicated they would comply with other action, then the monitoring officer should feel free to ask that the case be returned to the standards committee.

The remaining four responses expressed the view that either adjournment of the assessment decision or this alternative approach would be acceptable.

Feedback from the responses received indicated that the concerns stated in the article about adjourning a local assessment decision far outweighed the advantages. For those against adjournment, the main concerns were:

- There is a danger that contacting the subject member before a decision has been made could ultimately suggest that the member has breached the Code, without there being a finding of fact.
- A member who refuses to engage with proposed alternative action could undermine confidence in the standards committee and public perceptions of justice.

- Adjournment would risk not meeting the 20 working day target for decision.
- Significant costs could be involved even if the matter was relatively trivial.

Those in favour of adjourning before making a decision gave the following reasons:

- The member may be more likely to cooperate if they were made aware of the options available.
- The standards committee would be more confident when making a decision in the knowledge that the member would/would not engage in other action.
- Other action allows the monitoring officer to seek resolution locally without a formal investigation or public hearing and may therefore prove more cost effective. Adjourning an assessment decision to seek cooperation from the subject member may increase the chances of other action succeeding.

The Standards Board is very grateful to everyone who responded. We intend to issue further guidance on other action in 2009, incorporating the issue of adjournment.

## References to the Adjudication Panel for England by a standards committee

The President of the Adjudication Panel for England has recently issued guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a standards committee.

This guidance is now available on the Adjudication Panel's website and can be downloaded from the 'Guidance and Procedures' section at [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk).

## **Review of online monitoring system**

In August 2008, we conducted a review of the Standards Board's online monitoring system. This formed part of a programme of work to assess how well our new systems are working.

We conducted telephone interviews with a random sample of monitoring officers or those nominated by the monitoring officers to make the online submission. A total of 24 out of a potential 50 interviews were successfully completed. Thank you to all who participated.

As this was the first time that monitoring officers or nominated staff were asked to submit an online return, we were expecting some 'teething problems'. What we actually found was that the majority of comments received were positive. The simplicity of the form was valued, with the majority experiencing minimal or no difficulty in making their online submission. This was confirmed with 98% of authorities submitting their return on time.

A large majority (83%) of monitoring officers or nominated staff interviewed expressed the view that the system is working effectively. We asked interviewees if they had contacted the Standards Board for assistance with the completion of the online form. A proportion of those interviewed (25%) had contacted the Standards Board for assistance. We invited those that had made contact to rate the response received in terms of speed, politeness, helpfulness and clarity of advice provided. All respondents rated the response for all categories as very good.

Respondents were also asked how the Standards Board can improve the support we provide. We received some useful suggestions – such as having a confirmation receipt upon completion of the submission and receiving a reminder when the submission is due. We were also interested in finding out about any technical issues that you may have experienced and were

glad to hear that there were only minor technical problems.

We are now working to make improvements. The review does not end here and we will continue to carry out a review following the end of each quarter. We hope that this will ensure that we quickly pick up any problems you may be experiencing. We also look forward to speaking to some of you as part of the review of the second quarter of online monitoring.

If you have any questions about this review or future reviews of the system please contact Cara Afzal, Deputy Research and Monitoring Manager: **0161 817 5414** or email [cara.afzal@standardsboard.gov.uk](mailto:cara.afzal@standardsboard.gov.uk).

## **Six councils achieve top standards**

The following local authorities are all in with a chance of winning the Standards Board-sponsored Standards and Ethics category at the Local Government Chronicle (LGC) Awards 2009:

- Ceredigion County Council
- Leeds City Council
- Lincolnshire County Council
- Newark & Sherwood District Council
- Newcastle City Council
- Rossendale Borough Council

The authorities were shortlisted, from a total of 22 entries, for their dynamic approach to improving and promoting ethical standards among members while boosting public confidence in local democracy. The judges were Glenys Stacey, Chief Executive of the Standards Board, Nick Raynsford MP, and John Tizard, Director of the Centre for Public Service Partnerships at the University of Birmingham.

Dr Robert Chilton, Chair of the Standards Board, said:

“All the authorities shortlisted have been committed and innovative in achieving or maintaining high standards of member conduct. They’ve done this with methods like training, member support and partnership work, and promotional initiatives among councillors, officers and the public.

“The Standards Board is pleased to lend its support to this award and it was great to see such an encouraging response to the call for entrants. Following the changes in the standards system back in May, it’s clear that plenty of authorities have embraced the chance to take ownership of ethical standards, and have begun to work proactively to endorse and promote the standards framework as well as managing their own complaints and investigations.

“We hope that many other authorities will follow suit.”

The winner will be selected from the shortlist and announced at the LGC Awards at the Grosvenor House Hotel in London on 25 March 2009.

## **Governance and partnerships – work with Manchester City Council**

The Standards Board for England is currently undertaking research on how to ensure that authority partners are working to high standards of behaviour. This will enable us to provide guidance to local authorities and their standards committees.

Partnership-working is a growing and important way of operating. It could present a risk to public confidence if individuals and bodies involved in decision-making are not operating to a consistent and agreed standard of conduct.

Previous research undertaken for the Standards Board by the University of Manchester (Greasley et al, *The Components of an ethical environment*,

*Institute for Political and Economic Governance, University of Manchester, May 2006*) highlighted the problems of organisations when they come to work together. The research found differences in organisational culture, openness and transparency, inconsistencies in the codes of conduct that partners work to and differences in how codes of conduct are enforced.

We firmly believe that citizens should both expect and experience high standards of behaviour and probity wherever decisions are taken, or resources allocated, that affect lives and communities. Working in partnership should not compromise this.

As a minimum, local authorities should agree some shared values and standards of conduct with their partners at the outset of any joint working. These may be different for each and every partnership.

Our partnerships project aims to encourage high standards in partnership working. This will be done by creating a level playing field based on commitment to a set of agreed values and a description of appropriate behaviour.

It will achieve this through producing a description of appropriate behaviour in partnership with Manchester City Council and in consultation with the council’s partner organisations in the region. The description will illustrate appropriate behaviour in day-to-day partnership working based on the Nolan Principles of Standards in Public Life, and the experiences and needs of Manchester City Council and its partner organisations.

We intend that the work and learning from this project will be used as a basis for providing guidance nationally.

For further information on the governance and partnerships project, please contact Hannah Pearson, Research and Policy Adviser: **0161 817 5417** or email [hannah.pearson@standardsboard.gov.uk](mailto:hannah.pearson@standardsboard.gov.uk).

## **Complaints about standards committees: Role of the Local Government Ombudsmen**

Standards committees are within the jurisdiction of the Local Government Ombudsmen (LGO). Therefore it is possible to make a complaint to the LGO of maladministration causing injustice, as a result of some action or inaction by a standards committee or authority monitoring officer around the handling of a Code of Conduct complaint.

Parish councils are outside the LGO's jurisdiction. However, there is no jurisdictional bar to the LGO investigating the actions of a standards committee of a responsible authority regarding the committee's actions, which relate to a complaint about a parish councillor.

The LGO recognise that the Standards Board for England is the body established by statute to oversee member conduct. However, in some circumstances the LGO may wish to consider allegations of administrative fault where the complainant can claim to have suffered an injustice as a result of that fault.

A complaint to the LGO may only be made by, or on behalf of, a member of the public or a body other than a local authority or other public service body. A complainant must be able to claim a personal injustice. An elected member may only complain to the LGO about something which affects them personally as a member of the public. This can include actions of the authority's standards committee and officers carrying out functions in relation to the standards committee.

The Standards Board and the LGO have just signed a revised Memorandum of Understanding setting out our relevant jurisdictions and how we will work together effectively.

Further information about the work of the LGO is available at: [www.lgo.org.uk](http://www.lgo.org.uk).

## **NALC 'Stepping Stones' regional conferences**

The Standards Board will be exhibiting at the National Association of Local Councils (NALC)'s Stepping Stones regional conferences which take place in spring 2009. The conferences aim to share good practice and provide a regional networking opportunity for councillors and officers in all tiers of local government. More information on our activity at these events will be available from our website soon.

The dates for the events are:

### **Wednesday 11 February**

The Oak Tree Conference Centre, Coventry

### **Saturday 21 February**

The Hospitium, York

### **Tuesday 10 March**

The Council Chamber, Congress Centre, London

## Question and Answer Session – Leader of the Council

Standards Committee

Date: 19 January 2009

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

**Wards Affected:** All

### Purpose

- To provide the Committee with an opportunity to discuss with the Leader of the Council the authority's approach to ethical governance.

### Recommendation

- That the Monitoring Officer be authorised to amend the Desktop Ethical Audit in the light of the new IDeA Ethical Audit Toolkit and the discussion with the Leader of the Council on ethical governance.

## 1. Reasons

- 1.1 To progress the updating of the desktop ethical audit and keep the Standards Committee informed of issues of probity in the Council.

## 2. Detail

### *Desktop Ethical Audit*

- 2.1 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.
- 2.2 As referred to in the Ethical Framework Update report earlier in this agenda, the Council has been assessed by the Audit Commission as being at level 4 (the highest performing level) in the last two years, 2006/07 and 2007/08, for probity and propriety. A copy of the notable practice submission is attached as Appendix '1' to that report.
- 2.3 At its last meeting on 20<sup>th</sup> October 2008, the Committee reviewed the Ethical Audit Matrix, which had been updated with actions carried out since its last review in July 2007. This document is attached at Appendix '1'.
- 2.4 In addition, the Committee was informed that the IDeA in conjunction with the Standards Board and Audit Commission had updated the ethical

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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).

## Question and Answer Session – Leader of the Council

Standards Committee

Date: 19 January 2009

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governance toolkit, to reflect changes brought about by the Local Government and Public Involvement in Health Act 2007, and noted the new categories within the Ethical Audit Toolkit (attached at Appendix '2').

- 2.5 The Committee agreed that it wished to invite the Leader of the Council and the Chief Executive to its next meeting to discuss their key priorities and key areas for action and review in the light of the Desktop Ethical Audit. This would allow the Monitoring Officer to update the ethical audit and report back to a future meeting following this discussion.
- 2.6 The Leader will attend the meeting to discuss with the Standards Committee the Council's approach to ethical governance, in the light in particular of the new categories within the toolkit set out in the sections on 'Leadership Behaviour and Styles' and 'Relationships' which relate to the roles of the Leader and Chief Executive in ethical governance and ensuring that ethical standards are upheld.

### Alternative Options

- It is open to the Committee not to carry out an ethical audit, but this would not be in accordance with good practice.

### 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.
- Leader of the Council
- Chief Executive
- Group Director, Business Transformation

### Background Papers and Appendices

- Appendix 1 –Updated Ethical Audit Matrix, October 2008
- Appendix 2 – Revised Ethical Audit Categories

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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 Audit Desktop Analysis  
Matrix of Key Information held by Swindon Borough Council  
Updated 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</p>	

## APPENDIX '1'

			given as to whether a Code of Conduct applicable to 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</p>	

## APPENDIX '1'

			a formal method of confidential reporting for staff who do not feel able to raise issues directly with the Council.	
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	Corporate induction process is in place and departmental induction processes are also in place.  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	

## APPENDIX '1'

			<p>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</p>	

## APPENDIX '1'

			of the current plans. The Member Development Steering Group will receive an update at its next meeting.  In relation to specific development needs, a session on 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. A copy of the latest report is attached at Annex C.</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	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.	
16	Officers' Training	Yes	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	
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>	

**APPENDIX '1'**

			<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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## 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.

## 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?

## 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?

## 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?

## 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 hospitality

How 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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## Anti-Fraud & Corruption Strategy and Whistleblowing Procedure

Standards Committee

19 January 2009

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**Author:** Monitoring Officer and  
Head of Internal Audit

**Parish / Wards Affected:** All

### Purpose

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

### Recommendation

- That the Standards Committee authorise the Director of Law and Democratic Services (Monitoring Officer) to finalise and issue the Anti- Fraud and Corruption Strategy, the Whistleblowing Policy and the Fraud Response Plan, in consultation with the Chair and the Head of Internal Audit, having regard to comments received from the Audit Committee, the Council's External Auditors and the West of England Chief Auditor's Fraud Sub-Group.

## 1. Reasons

- 1.1 To ensure that the Council's Policies on Anti-Fraud and Corruption and Whistleblowing are up-to-date and reflect best practice.
- 1.2 To ensure that Members and officers are made aware of how to identify the types of fraud, how it occurs, indicators of potential fraud and how to respond if it is discovered.

## 2. Detail

- 2.1 The Council controls millions of pounds of public money and takes very seriously the high expectations of the public and the degree of scrutiny to which the affairs of the Council are subject.
- 2.2 In carrying out its functions and responsibilities the Council wishes to promote a culture of openness and fairness and expects that elected members and employees at all levels will adopt the highest standards of propriety and accountability. Proper accountability, achieved through probity, internal control and honest administration is therefore essential.
- 2.3 The revised Anti-Fraud and Corruption Strategy (Appendix 1) complies with the requirements of the Use of Resources key lines of enquiry and best practice/guidance issued by the CIPFA Better Governance Forum in

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

# Anti-Fraud & Corruption Strategy and Whistleblowing Procedure

Standards Committee

19 January 2009

their publication: '*Managing the risk of fraud: actions to counter fraud and corruption*'.

- 2.4 The Council's Whistleblowing Policy (Appendix 2) supports the Anti-Fraud and Corruption Strategy. The policy complies with the requirements of the new British Standard on whistleblowing, and makes it clear that concerns can be raised without the fear of reprisals. It is intended to encourage and enable employees, Members and Governors to raise serious concerns within the Council, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally.
- 2.5 The Fraud Response Plan (Appendix 3) – provides direction and help to officers and members in reporting and reacting with suspected cases of theft, fraud and corruption.
- 2.6 The Strategy and Policy were last reviewed and adopted by this Committee at its meeting in July 2007. At its meeting in July 2008 the Committee agreed that the Monitoring Officer and Head of Internal Audit would consult on the review of the Anti-Fraud and Corruption Strategy, the Whistleblowing Policy and the Fraud Response Plan.
- 2.7 Due to only recently receiving the guidance from the CIPFA Better Governance Forum it has not been possible to consult with all interested parties prior to this meeting, therefore the Committee are requested to recommend the adoption of the strategy by Council subject to comments from Audit Committee, the Council's External Auditors and the West of England Chief Auditor's Fraud sub-group. Changes that have been made to the Fraud Response plan reflect the need to involve the Council's Human Resources Directorate in the process.

## Alternative Options

It is open to the Committee not to update the policies but this would not be in accordance with good practice.

### Risk Management

#### *Financial and Procurement Implications*

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

#### *Legal / Human Rights Implications*

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

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



# Anti-Fraud & Corruption Strategy and Whistleblowing Procedure

Standards Committee

19 January 2009

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

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

## **Consultees**

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports).
- Group Director Business Transformation
- Director of Human Resources and Change
- The Council's Audit Committee, External Auditor and the West of England Chief Auditor's Fraud Sub Group are also to be consulted prior to adoption.

## **Background Papers and Appendices**

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

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

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# **SWINDON BOROUGH COUNCIL**

## **ANTI-FRAUD AND CORRUPTION STRATEGY**

**Reviewed: December 2008**



# **Contents**

	<b>Page Number</b>
Introduction – why do we need a strategy?	1
Links to strategic objectives	1
What are Fraud and Corruption?	2
Objectives of the strategy	2
Adopting the right strategy	3
Accurately identifying the risks	3
Creating and maintaining a strong structure	4
Taking action to tackle the problem	6
Defining Success	8
Keeping ahead	8
Action Plan	10
 Appendix 1: Whistleblowing Policy	
Appendix 2: Fraud Response Plan	

## INTRODUCTION

Swindon Borough Council controls millions of pounds of public money and takes very seriously the high expectations of the public and the degree of scrutiny to which the affairs of the Council are subject.

In carrying out its functions and responsibilities the Council wishes to promote a culture of openness and fairness and expects that elected members and employees at all levels will adopt the highest standards of propriety and accountability. Proper accountability, achieved through probity, internal control and honest administration is therefore essential.

Although the Council has a good reputation for integrity and honesty things may go wrong and, in case they do, we must have procedures for combating fraudulent or improper attempts to obtain assets or services.

The Council needs to maintain constant vigilance in order to safeguard the resources to which we are entrusted and protect our reputation. We must raise awareness, deter and identify fraud and, at the same time, provide mechanisms for employees to raise legitimate concerns when they feel justified, hence, the need for this strategy.

The principle outlined in this strategy apply to Members and all employees of the Council including school based staff and they demonstrate, to the community of Swindon, our commitment to the prevention, detection and investigation of all forms of fraud and corruption wherever it is found.

The Council also expects the same level of commitment from all outside individuals and organisations, including partners and contractors and claimants ensuring that they act towards the Council with honesty and integrity.

## LINKS TO STRATEGIC OBJECTIVES

The Council has adopted a Corporate Plan for the period 2006/10. This is called 'Making Swindon the UK's Best Business Location'. The plan identifies seven corporate priorities for this period of which three are partly dependent on strong anti-fraud and corruption arrangements i.e.

- **To deliver excellent services** – there is a continuing drive towards ensuring people from all of Swindon's communities experience excellent services.
- **To transform the performance and effectiveness of the organisation** – the Council is focussing on service excellence, customer first, modern workforce and value for money.
- **To make the best use of resources** – through a programme of efficiency reviews, implementing a new value for money programme and benchmarking of costs, quality and effectiveness.

Delivering excellent services requires obtaining value for money and ensuring that there are strong arrangements in place to combat fraud and corruption so that public confidence in the Council is maintained.

## WHAT ARE FRAUD AND CORRUPTION

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

- Fraud by false representation: a person is in breach of this section if this is done dishonestly and there is intent, by making the representation, to make a gain for himself or another; or to cause or expose the risk of loss to another.
- Fraud by failing to disclose information: a person is in breach of this section if he dishonestly fails to disclose to another person information which he is under a legal duty to disclose; and intends by failing to do so, make a gain for himself or another; or to cause or expose the risk of loss to another.
- Fraud by abuse of position: a person is in breach of this section if he occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person; dishonestly abuses that position with the intention to make a gain for himself or another; or to cause or expose the risk of loss to another.

**Theft** is defined in the 1968 Theft Act, as ‘a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it’.

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

## OBJECTIVES OF THE STRATEGY

The Council's objectives for its Anti-Fraud Strategy for 2008-2011 are to maintain minimal losses through fraud and corruption and embed management of fraud risk within the culture of the organisation. The intention is to achieve this by implementing the CIPFA Fraud Standards that state that the foundations of an effective anti-fraud framework comprise five key elements:

- Adopting the right strategy
- Accurately identifying the risks
- Creating and maintaining a strong structure
- Taking action to tackle the problem
- Defining success

The next section of this strategy document outlines each of the CIPFA fraud standards and assesses how each of these will be delivered. Key activities that will be taken forward in the Action plan for 2008-2011 are highlighted; the Action plan also includes actions that seek to introduce other elements of best practice from the Use of Resources Key Lines of Enquiry for 2008 and 2009 and other local authorities.

## **ADOPTING THE RIGHT STRATEGY**

To reduce losses to fraud and corruption to an absolute minimum, a strategic approach is required with a clear remit covering all areas of fraud and corruption affecting the organisation. The Council's anti-fraud and corruption strategy is linked to its strategic objectives and describes outcomes against which to evaluate its effectiveness. The strategy meets the requirements of the Use of Resources Key Line of Enquiry for 2009 and also the Cipfa Better Governance Forum guidance 'Managing the risk of Fraud: actions to counter fraud and corruption'. The strategy has also been updated to reflect the changes introduced by the Fraud Act 2006.

The Council's Whistleblowing Policy, which is an appendix to this strategy, also complies with best practice and the British Standard on Whistleblowing.

Additionally, there needs to be a clear understanding of the importance of the links between policy work (to develop an anti-fraud and corruption culture, create a strong deterrent effect and prevent fraud and corruption by designing and redesigning policies and systems) and operational work (to detect and investigate fraud and corruption and seek to apply sanctions and recover losses where they are found).

The temptation may be to 'pick and choose' actions. However, the full range of integrated action must be taken forward with the organisation's focus clearly on outcomes (i.e. reduced losses) and not just activity (i.e. the number of investigations, prosecutions, etc).

## **ACCURATELY IDENTIFYING THE RISKS**

Measuring the level of illicit activity is inherently difficult, however this must be done where practicable. Through measuring the problem of fraud and learning from where it is detected and how systems are penetrated, we can gain knowledge of where it is necessary to strengthen or introduce systems.

Both Internal Audit and the Council's Housing Benefits Fraud Team carry out pro-active counter fraud and corruption work, based on an assessment of risk. Measuring the potential risk exposure will be key to developing this informed approach.

Internal Audit is a member of the West of England Chief Auditors Group and is an active member of the Fraud sub-group. The Fraud sub-group allows for the exchange of best practice, experiences of recent frauds/scams, shared training programmes and the opportunity to benchmark etc. This is a valuable source of information in identifying the risks of fraud.

The Council is also a member of the Cipfa Better Governance Forum that issues guidance, best practice etc. in the area of counter fraud and corruption arrangements. The Forum issues weekly newsletters that identifies potential risk issues and has also developed a training programme that covers counter fraud issues.

## CREATING AND MAINTAINING A STRONG STRUCTURE

### Authority

The responsibility for an anti-fraud culture is the joint duty of all those involved in giving political direction, determining policy and management. The Standards Committee and the Audit Committee are key member forums for ensuring sufficient authority is given to anti-fraud activity.

Corporate Board own the fraud strategy and are responsible for ensuring a strong counter fraud culture within their Group Directorates, and that staff accept that they are responsible for preventing and detecting fraud and corruption.

All Group Directors and Directors are required to sign annual governance assurance statements that include reference to the assessment of the risk of fraud and internal control arrangements within their directorates.

In order for the Council to deal robustly and effectively with suspected incidents of fraud, those responsible for investigating matters must be fully supported by all officers.

### Culture

The Audit Commission, in its annual survey and report on fraud and corruption in the Public Sector ("Protecting the Public Purse"), has highlighted the need for Members and senior officers to create an anti-fraud culture and environment within the organisation. The fight against fraud and corruption can only truly be effective where these acts are seen as anti-social, unacceptable behaviour and Whistleblowing is perceived as a public-spirited action.

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

- Selflessness
- Honesty and Integrity
- Objectivity
- Accountability
- Openness
- Personal judgement
- Respect for others
- Duty to uphold the law
- Stewardship
- Leadership

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

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

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

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



- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of any of the above

The Council will ensure that any allegations received in any way including by anonymous letters or telephone calls will be taken seriously and investigated in an appropriate manner.

The Council will deal firmly with those who defraud the Council, or are corrupt, or where there has been financial malpractice. There is a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees raising malicious allegations) may be dealt with as a disciplinary manner.

When fraud and corruption has occurred due to a breakdown in the Council's systems or procedures, senior managers will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

The actions outlined in the action plan aim to help the Council to continue to ensure that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption.

### **Safe Recruitment**

The Council recognises that one of the most important aspects in relation to the prevention of fraud and corruption is the recruitment of staff. The Council already seeks to:

- Obtain satisfactory references before appointments are made
- Verify and retain copies of certificates for stated qualifications
- Comply with s.8 of the Asylum and Immigration Act 1999
- Undertake checks with the Criminal Records Bureau, where appropriate for the post
- Compliance with other Codes of Practice (e.g. OFSTED) for staff dealing with vulnerable service users

### **Training and Staff Development**

As part of the annual review of the mechanisms to prevent and detect fraud, training and appropriate skills and expertise will need to be developed. Both officers involved in anti-fraud work, and general operations, will need to develop appropriate knowledge and skills in respect of fraud awareness, prevention, detection and investigation.

The Council will ensure that key anti-fraud staff have in place an appropriate personal development and training plan that will ensure that they have the right competency levels to prevent, identify and investigate fraud.

The Council will also consider the need to provide 'fraud risk awareness' training to groups of Officers, this may consist of general fraud awareness, or specific fraud awareness training such as case handling and IT crime; this may be provided internally, on-line, or be procured externally.

Such courses may include:

- Pre-employment screening
- Interviewing skills
- Money laundering
- Identity Fraud
- Fraud Identification and Prevention
- Regulation of Investigatory Powers Act
- Data Protection Act

## **Relationships with other organisations**

Arrangements need be put into place to encourage the exchange of information about fraud and corruption between the Council and other public agencies. Any such exchange of information will be undertaken in accordance with the principles contained in the Data Protection Act 1998.

These public agencies may include:

- Police
- Local, Regional and National Auditor Networks
- The National Anti-Fraud Network
- Audit Commission (NFI etc.)
- External Auditor (Audit Commission)
- Office of Fair Trading
- Department of Work and Pensions
- Health Service
- District Councils
- Other key partners such as Capita, LAA partners etc.

## **TAKING ACTION TO TACKLE THE PROBLEM**

### **Deterrence**

There are a number of ways to deter potential fraudsters from committing, or attempting fraudulent or corrupt acts, whether they are internal or external to the Council. These include, but are not limited to:

- Publicising the fact that the Council is firmly set against fraud and corruption and stating this at every opportunity
- Acting robustly and decisively when fraud and corruption are suspected and proven
- Taking action to effect maximum recoveries for the Council
- Informing the Council's Press Office where cases of fraud and corruption against the Council are referred for criminal proceedings and subsequently brought to court, with a view to issuing a press release
- Having sound internal control systems which allow for innovation but do not provide the opportunity for fraud and corruption

## **Prevention**

There is an important role to be played in the prevention of fraud and corruption by managers within all services. It is vital that managers understand the importance of soundly designed systems which meet key control objectives and minimise the opportunities for fraud and corruption. They are responsible for assessing the potential for fraud and corruption within their own Service's activities and for implementing appropriate strategies to reduce this risk.

To this end, Internal Audit and Risk Management endeavours to provide appropriate advice to service Managers to ensure that they are fully aware of the need to give sufficient emphasis to the preventative aspects of fraud and corruption work. Internal Audit issue Fraud Bulletins on a regular basis informing staff of recent frauds and scams that have occurred in both the public and private arenas. Fraud Alerts are also issued where a particular issue has arisen that requires immediate attention.

### **Internal audit anti-fraud work plan**

As well as furthering the corporate actions identified in the accompanying action plan, a plan for Anti-Fraud work is produced by Internal Audit. This work is included in the annual internal audit plan. The areas selected for review are those fraud risk scenarios and activities that are assessed as being at high risk.

## **Detection**

It is often the alertness of employees or members that enables detection to occur.

Under our Anti-Fraud and Corruption Policy, employees must report any suspected cases of fraud and corruption to the appropriate manager, or if necessary, directly to the Head of Internal Audit. Reporting cases in this way is essential to the anti-fraud and corruption strategy and ensures that:

- Suspected cases of fraud and corruption are investigated properly
- The fraud response plan is carried out properly
- People and our interests are protected

The Council's Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns. The Council has a dedicated, secure Whistleblowing hotline telephone number that is advertised widely across the Council through both poster campaigns and articles in the Core Brief etc.

The Council participates in the biennial National Fraud Initiative and detects certain types of fraud by this means.

## **Investigation**

Depending on the nature and anticipated extent of the allegation(s), the Head of Internal Audit will normally work closely with management and other agencies, such as the Police, to ensure that the allegation(s) are properly investigated, reported and where appropriate, maximum recoveries are achieved.

The follow-up of any allegation of fraud and corruption received will be through the agreed procedures of the Anti-Fraud and Corruption Policy, the Fraud Response Plan and Disciplinary Procedures. The Council must also adhere to the provisions of the Regulation of Investigatory Powers Act and Money Laundering Legislation.

Where a fraud has occurred, management must take any necessary changes to systems and procedures to ensure that similar frauds will not recur. Any investigation undertaken may highlight where there has been a failure of supervision or a breakdown/absence of control. Any lessons learnt will be disseminated to all relevant sections.

## **Sanctions and Redress**

After any investigation, sanctions should be applied where fraud and corruption are proven to be present. This should be done in a comprehensive, consistent and proportionate manner with all possible sanctions – disciplinary, civil and criminal – considered. Success rates need to be monitored routinely as an indicator and part of the quality process. The organization should be effective in recovering any losses incurred to fraud and corruption using, as appropriate, criminal and/or civil law.

Methods of recovery include, but are not confined to:

- Recovery of pension contributions from employees who are members of the Pension Fund
- An assessment of what assets an employee or third party who has committed fraud has and whether the losses incurred by the County Council can be recovered
- Bankruptcy - if it is believed an individual has a poor history of paying
- If an individual remains an employee of the County Council any assessed losses can be recovered from future salary payments

## **DEFINING SUCCESS**

Activity should not be confused with outcomes. The focus should always be fixed firmly on the clear outcomes described above for work to counter fraud and corruption. It is important that these relate to the actual sums lost to fraud and corruption rather than to the activity around it. This is no different from a commercial organization focusing on profit rather than turnover.

While activity can give an organisation the air of being busy – and, therefore, successful – what matters is the bottom line. Preventing fraud prevents losses – losses that can be directed into core business.

Only a comprehensive and professional approach to countering fraud and corruption can fully protect an organisation's valuable resources.

## **KEEPING AHEAD**

In order to try and stay one step ahead of the fraud to which the Council may be exposed, it will be necessary to undertake a regular review of national developments and strengthen systems and procedures. Key sources of information that will be used to inform the ongoing continuous improvement of the Anti-Fraud Strategy will be:

- Audit Commission Publications – in particular:
  - National Fraud Initiative Newsletters
  - Audit Commission Fraud Reports
  - Protecting the Public Purse
  - ICT Fraud and Abuse
- HM Treasury Publications – in particular:
  - Annual Fraud Reports
- CIPFA Better Governance Forum (IPF)
  - Weekly Newsletters
- National Anti-Fraud Network
  - Strategic Risk Assessment – Local Authority Fraud
  - Ongoing Alerts on website
- West of England Chief Auditors Group (Unitary and County Councils) Fraud sub-group
  - Benchmarking
  - Shared training programme
  - Exchange of information on recent frauds and scams
- KPMG Forensic
  - Fraud Risk Management publications

## Anti-Fraud Strategy Action Plan – 2009

Ref	Action	Deadline	Responsibility
<b>ADOPTING THE RIGHT STRATEGY</b>			
1.1	Include explicit reference to the risk of fraud and corruption in the Council's Risk Management Strategy.	January 2009	Risk Manager
1.2	Develop a Fraud Risk Assessment to inform Internal Audit's anti-fraud and corruption proactive work.	March 2009	Head of Internal Audit
1.3	Review and update the range of anti-fraud policies on an annual basis.	January 2009	Head of Internal Audit
<b>ACCURATELY IDENTIFYING RISKS</b>			
2.1	Review techniques for measuring fraud and corruption losses and assess applicability to Swindon.	August 2009	Head of Internal Audit
2.2	Identify and maintain a proven record of actual amounts lost by the Council for recovery proceedings.	March 2009	Principal Auditor
<b>CREATING AND MAINTAINING A STRONG STRUCTURE</b>			
3.1	Ensure that Corporate Board, Standards Committee and Audit Committee approve the final Fraud Strategy.	January 2009	Director of Law and Democratic Services
3.2	Include reference to measures taken to counter fraud and corruption in Annual Directors Assurance Statements arrangements made to ensure all staff are aware of their responsibilities in this area.	January 2009	Head of Internal Audit

Ref	Action	Deadline	Responsibility
3.3	Research and develop formal agreements with key partners, such as health service and other LAA partners, Capita etc. to encourage the exchange of information on national and local fraud and corruption activity which may affect the Local Authority.	October 2009	Head of Internal Audit
<b>TAKING ACTION TO TACKLE THE PROBLEM</b>			
4.1	Develop, publicise and maintain a separate counter fraud page on the Council's intranet, to include: <ul style="list-style-type: none"> <li>▪ Counter Fraud Strategy,</li> <li>▪ Confidential Reporting (Whistleblowing) Policy,</li> <li>▪ Theft Fraud and Corruption Response Plan</li> <li>▪ Money Laundering Policy</li> <li>▪ Feedback form</li> <li>▪ How to report suspicion of fraud</li> <li>▪ Contact details for Internal Audit and the Audit Commission</li> </ul>	September 2009	Principal Auditor
4.2	Define arrangements for maintaining up to date policies in respect of Safe Recruitment.	October 2009	Director of HR and Change / Principal Auditor
4.3	Identify any group of posts, which have opportunities for fraud and review need for CRB checks to be undertaken.	October 2009	Director of HR and Change / Principal Auditor
4.4	Include reference to Whistleblowing in Staff Survey to test the confidence in these arrangements.	September 2009	Head of Internal Audit
4.5	Develop ongoing programme of anti-fraud audits - a cyclical approach to address areas where the Council is most vulnerable to fraud and corruption.	March 2009	Audit Manager
4.6	Develop warning signs reference list for auditor use in reviews.	April 2009	Principal Auditor
4.7	Cascade the Fraud Response Plan to relevant staff.	December 2009	Principal Auditor

Ref	Action	Deadline	Responsibility
4.8	Review existing anti-fraud policies and related procedures to ensure they are compliant with legal requirements and whether they are sufficiently robust in respect of sanctions and redress.	February 2009	Head of Internal Audit
4.9	Undertake annual reviews of sanctions levied, redress obtained and the effectiveness of investigations in cases where fraud and corruption are proved to be present, with a view to reporting to Standards and Audit Committees.	June 2009	Principal Auditor
<b>DEFINING SUCCESS</b>			
5.1	Develop performance measures for this area.	June 2009	Head of Internal Audit
5.2	Report the progress on activity against this strategy on an annual basis.	June 2009	Head of Internal Audit



# **SWINDON BOROUGH COUNCIL**

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

**Reviewed: JANUARY 2009**



# Contents

	<b>Page Number</b>
1. Introduction	1
2. Aims and Scope of Policy	1
3. Safeguards	2
4. How to raise a concern	3
5. How the Council will respond	4
6. How the matter can be taken further	5
7. The Monitoring Officer	6
8. The Law	6

## **1. Introduction**

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

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

- 2.1 This policy aims to:
- Provide avenues for staff to raise concerns and receive feedback on any action taken;
  - Allow staff to take the matter further if they are dissatisfied with the Council's response; and
  - Reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.
- 2.2 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment for example in relation to areas such as terms and conditions of employment; health and safety; work relations; new working

practices; working environment and conditions; workload; organisational change, etc. This Disclosure Policy is intended to cover concerns that fall outside the scope of that procedure.

2.3 That concern may be about something that:

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

For example (this list is not exhaustive):

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

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

### **3. Safeguards**

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

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

### ***Confidentiality***

- 3.3 The Council will do its best to protect a staff member's identity when they raise a concern and do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by staff may be required as part of the evidence.

### ***Anonymous Allegations***

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

### ***Untrue Allegations***

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

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

- 4.1 Employees who raise concerns that fall within the scope of other Council procedures will not be dealt with in this procedure, but will be advised on the appropriate procedure to use. Such employees will still receive protection as detailed in this policy.
- 4.2 As a first step, staff should normally raise concerns with their immediate manager or supervisor as soon as the employee has reasonable suspicion. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If in doubt, contact the Chief Executive, or the Director of Law and Democratic Services (the Council's Monitoring Officer), or the Head of Internal Audit.
- 4.3 Alternatively, staff can leave a message on the 24-hour Whistleblowing answer phone and fax service (**telephone number 01793 464603**). The phone and fax are located in a secure area. This service is strictly confidential and callers will not be asked to give their name if they do not want to.

- 4.3 Concerns are better raised in writing. Staff are invited to set out the background and history of their concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation. If staff do not feel able to put their concern in writing, they can telephone or meet the appropriate officer. The earlier staff express the concern, the easier it is to take action.
- 4.4 Although staff are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.
- 4.5 Advice and guidance on matters of concern may be pursued and can be obtained from:
- Chief Executive
  - Group Directors / Directors
  - Director of Law and Democratic Services (Monitoring Officer)
  - Director of Finance
  - Head of Internal Audit
  - any of those listed in paragraph 6.1 below
- 4.6 Staff may invite a trade union representative or work colleague to raise a matter on their behalf.

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

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

- 5.3 Some concerns may be resolved by agreed action without the need for investigation and staff will be involved in those discussions. The Monitoring Officer shall report periodically thereon to the Standards Committee.
- 5.4 If an investigation is required, the Monitoring Officer will consult with the Head of Internal Audit and the Chair of Standards Committee and designate an appropriate officer to investigate the concern. Following this that officer will, within ten working days, write to the member of staff:
- Acknowledging that an investigation will be carried out
  - Indicating how he/she proposes to deal with the matter
  - Giving an estimate of how long it will take to provide a final response
  - Telling them whether any initial enquiries have been made
  - Telling them whether further investigations will take place, and if not, why not
  - Advising them that any investigation will be carried out in the strictest confidence; and
  - Keeping them informed of the progress of the investigation.
- 5.5 The amount of contact between the officers considering the issues and the staff member will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from staff.
- 5.6 When any meeting is arranged, staff have the right, if they so wish, to be accompanied by a union representative or work colleague who is not involved in the area of work to which the concern relates.
- 5.7 The Council will take steps to minimise any difficulties that staff may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.
- 5.8 The Monitoring Officer will report on the outcome of any investigation to the Standards Committee who will monitor the implementation of the recommendation of the investigation.

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

- 6.1 This policy is intended to provide staff with an avenue to raise concerns **within** the Council. The Council hopes staff will be satisfied. If they are not, and feel that it is right to take the matter outside the Council, the following are possible contact points:
- Local Council member (if staff member lives in the area of the Council)

- Chair or any member of the Standards Committee
- The External Auditor (Audit Commission: tel. no. 0117 923 6757)
- Relevant professional bodies or regulatory organisations
- Solicitor
- The Police
- An independent person or organisation nominated for the purpose by the Council
- Public Concern at Work (tel. no. 020 7404 6609). If staff do take this matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. Staff should check with the contact point about that.

## **7. The Monitoring Officer**

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

## **8. The Law**

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



# **SWINDON BOROUGH COUNCIL**

## **FRAUD RESPONSE PLAN**



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

**DATE: January 2009**

**VERSION: 2.1**

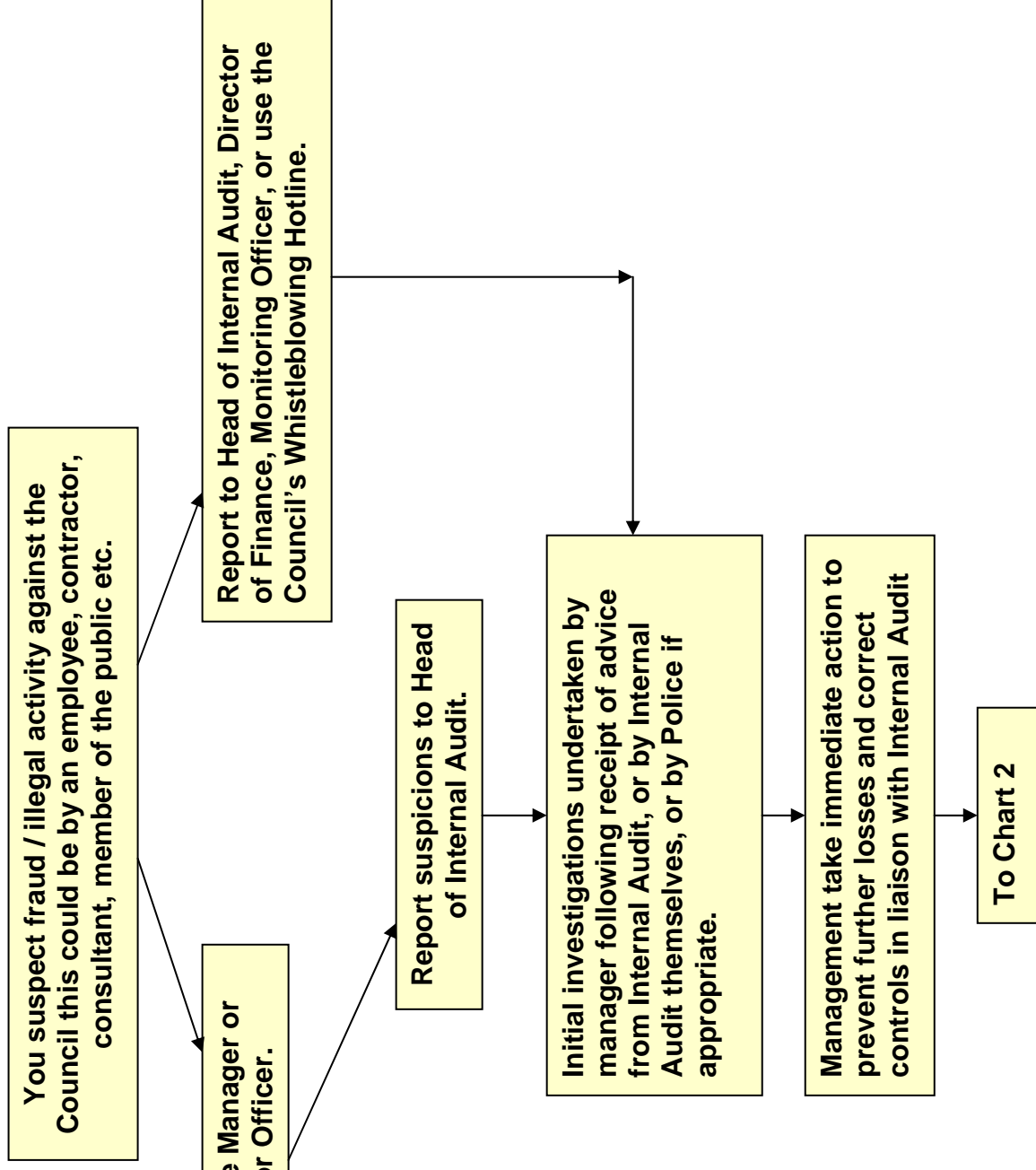
## 1. Introduction

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

## 2. Scope of Response Plan

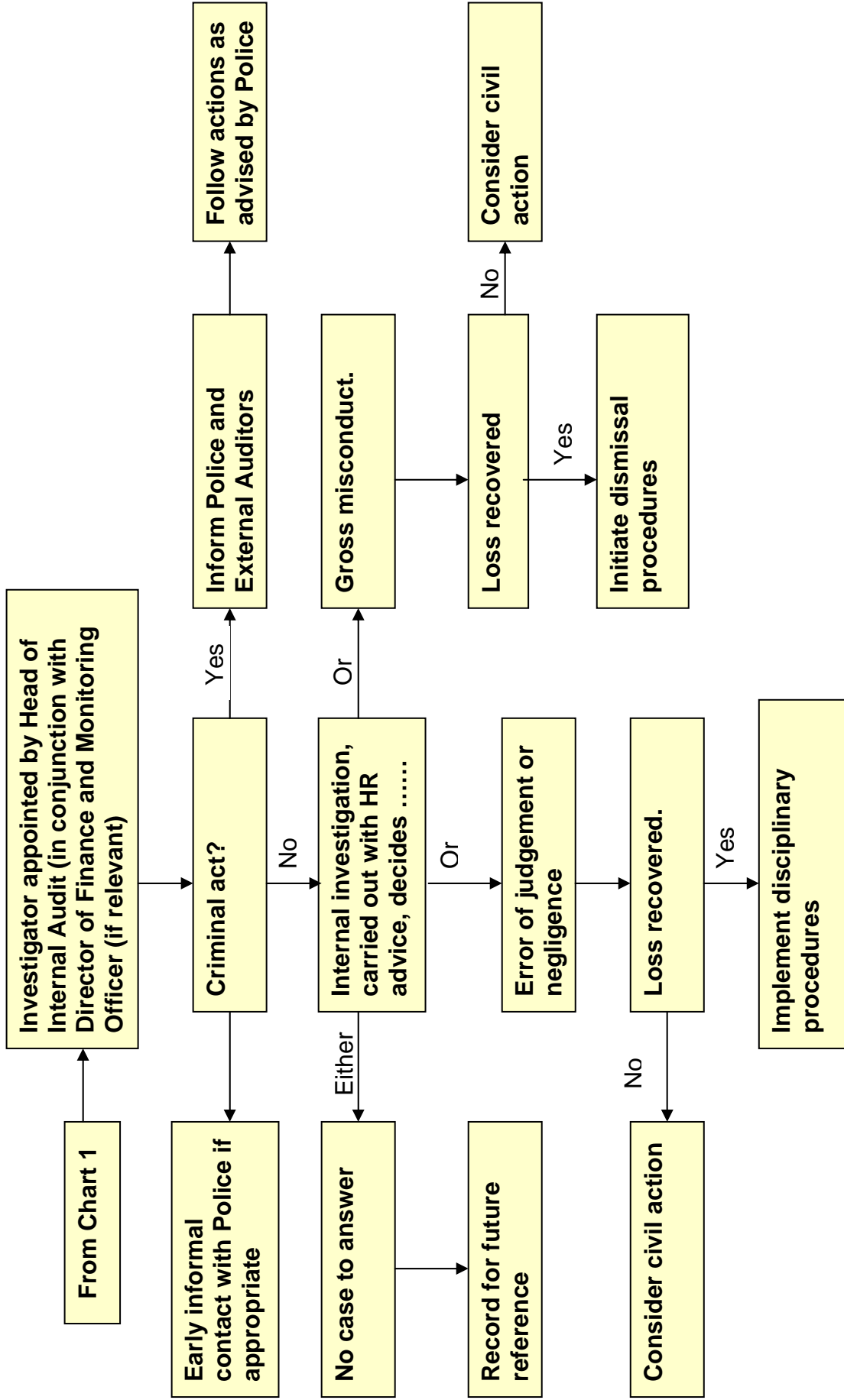
- 2.1 The scope of this response plan is not limited to fraud and corruption but is applicable to any suspected act of financial impropriety. This includes any act that puts the Council's resources at risk.
- 2.2 The exception to this are the arrangements for reporting Housing Benefit Fraud, which is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

## 1. Reporting Fraud



**Contact Numbers:**  
Head of Internal Audit: 01793 463940  
Director of Finance: 01793 463300  
Monitoring Officer: 01793 463012  
Whistleblowing Hotline: 01793 464603

## 2. Conducting the Investigation



### 3. Reporting Suspicions

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

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

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

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

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

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

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

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

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

### 4. Investigation

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

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

The Manager should:

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

***Internal Audit:***

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

Internal Audit will take appropriate advice from the Council Human Resources directorate and, where relevant, the Police during the course of their investigation.

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

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

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

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

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

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

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

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

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

## **6. Police Referral Procedures**

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

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

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

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

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

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

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

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

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

## **8. Recovery of Losses**

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

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

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

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

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



(including members and third parties) should refer those making the enquiry to the Director of Partnership, Policy and Communications.

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

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

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

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

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

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

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

**Investigating Officers (usually a member of the Internal Audit team)**

Have responsibility for investigating matters of suspected fraud or corruption complying with relevant legislation and best practice/guidance.

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

**Human Resources:** will provide timely advice and guidance on Council policies and procedures during the course of any investigation and any subsequent disciplinary action.

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

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

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## Agenda Item 8

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

Document is Restricted

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