

Swindon Borough Council

Standards Committee

Monday, 15 July 2013

Committee Room 1, Civic Offices

At 5.00 p.m.

Councillors

Michael Bray
John Haines
Roderick Bluh (Deputy)
(Conservative)

Fay Howard
Teresa Page
(Labour)

David Wood (Chair)
(Liberal Democrat)

Co-opted Representatives

Mr Trevor Davies
Mr David Dawson
2 Parish Council representatives
(to be nominated)

Independent Persons for Information:

Paul Morris
Peter Morgans

Committee Officer: Steve Jones (Telephone 01793 463602)
email: stevejones@swindon.gov.uk

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AGENDA

PART 1 (PUBLIC ITEMS)

- 1. Appointment of Vice-Chair**
- 2. Apologies for Absence**
- 3. 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.

4. Minutes (Pages 1 - 4)

5. 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.)

6. Exempt Items - Exclusion of Press and Public

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

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

7. Standards Committee Annual Report DLDS (Pages 5 - 14)

8. Annual Work Programme DLDS (Pages 15 - 18)

9. Ethical Framework Update DLDS (Pages 19 - 32)

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

10. Ethical Compliance Report DLDS, HIA (Pages 33 - 36)

5 July 2013 (being date of agenda despatch)

Key:

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

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

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

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

Standards Committee - Terms of Reference

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

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England, or which may arise under the 'local filtering' arrangements for complaints as to breaches of the Members Code of Conduct;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) to also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) to grant and supervise exemptions in relation to those politically restricted posts for which it is responsible
- (m) ensure the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular
 - receive annual reports on its operation
 - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
 - adjudicate upon all complaints which remain unresolved
 - require Service Managers to report upon any areas of activity which may

have been the subject of criticism in respect of standards of conduct and behaviour

- approve and publish an annual report upon the operation of the system;

(n) report to the Council when it considers:-

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

(o) approve the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;

(p) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;

(q) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member; and

(r) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

STANDARDS COMMITTEE

MONDAY, 18 MARCH 2013

PRESENT:- Councillor David Wood (Chair), Councillor Richard Hurley (Vice-Chair), Councillor Rex Barnett, Councillor Mary Friend, Councillor Fay Howard, Councillor Teresa Page, Mr Trevor Davies, Mr Mike Compton and Mr Richard Hailstone.

Apologies for absence were received from Mr David Dawson.

15. 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.

16. Minutes

Resolved – That the minutes of the meeting held on 29th January 2013, be confirmed and signed as a correct record.

17. Public Question Time

No public questions were received during the meeting.

18. 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 20 refers.)

19. Ethical Framework Update

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

- a) The 14th Report of the Committee on Standards in Public Life – the Committee agreed the revised description of the 7 principles in the preamble to the Members Code of Conduct, as listed in Appendix 1 to the report and which had been agreed by the Corporate Governance Review Working Group on 7th March 2013.
- b) Annual Governance Statement – The Committee noted the Annual Governance Statement Framework as listed in Appendix 2 to the report and the Group Directors' Assurance Statement at Appendix 3. It was agreed that an additional statement be added under section 7 (staff) stating 'are you and your staff aware of the Council's rules relating to the Whistleblowing Policy?' The Director of Law and Democratic Services commented that he was

unaware of any control or governance issues that had resulted in significant public interest or had seriously damaged the Council's reputation but that he would ask internal Audit if they were aware of any and, if so, would email details round to members of the Committee.

- c) Dispensations – the Committee noted that no dispensations had been granted by the Monitoring Officer, in consultation with the Chair of the Standards Committee, since the last meeting.
- d) Independent Person Protocol – The Director of Law and Democratic Services tabled a draft protocol relating to the role of the Independent Person. The Director of Law and Democratic Services agreed to review previous minutes to confirm whether or not agreement had been reached regarding the role of the Independent Person in Assessment Panels. It was also agreed that the two Independent Persons would meet with the Director of Law and Democratic Services to review the draft protocol in detail and submit their proposals to a future meeting.
- e) Parish Councils - the Committee noted the update on Parish Council training, the adoption of a Members Code of Conduct and the Register of Interests published since the last meeting. Further training would be provided to Chiseldon Parish Council on 26th March 2013 and would be available to other Parish Councillors.
- f) Standards Exchange – the Director of Law and Democratic Services reported that the Council had subscribed to this interactive website and had requested alerts on particular issues. He agreed to investigate the possibility of posting issues on the website.

Resolved –

- (1) That the Ethical Framework update be noted.
- (2) That the Council amend the Members Code of Conduct to reflect the updated principles of public life in the 14th report of the Committee on Standards in Public Life as set out in Appendix 1, to promote consistency with the standards to which other holders of public office are held.
- (3) That, subject to the inclusion of a statement outlining the requirement for Group Directors and their staff to be aware of the rules relating to the Whistleblowing Policy under Section 7, the process and questionnaire for the preparation of the Council's Annual Governance Statement as set in Appendices 2 and 3, be agreed.
- (4) That information on any control or governance issues that had resulted in significant public interest or had seriously damaged the Council's reputation be circulated to members of the Committee.
- (5) That agreement on the draft protocol relating to the role of the Independent Person be deferred until the next meeting, pending further discussion between the Independent Persons and the Director of Law and Democratic Services.
- (6) That the Council's subscription with Standards Exchange be noted.

20. Ethical Compliance Report

The Committee considered an exempt report from the Director of Law and Democratic Services (Monitoring Officer) regarding the outcome of various ethical framework compliance matters, including progress on Whistleblowing cases since the last Committee, Breach of the Protocol for Member/Officer Relations and Code of Conduct Complaints.

The Committee noted that controls had improved as a result of two of the Whistleblowing cases and the Director of Law and Democratic Services agreed to investigate whether any of the complainants had received any unfavourable treatment as a direct result of making the complaint.

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

(2) That the Director of Law and Democratic Services investigate whether any of the Whistleblowing complainants had received unfavourable treatment as a direct result of making the complaint.

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Standards Committee Annual Report

Standards Committee

Date: 15th July 2013

Author: Director of Law and Democratic Services
Wards: All
Locality Affected: All
Parishes Affected: All

1. Purpose and Reasons

- 1.1 To ask the Committee to agree its Annual Report for 2012/13.

2. Recommendations

The Committee is recommended to:

- 2.1 Consider and agree its Annual Report for 1 July 2012– 31 May 2013.

3. Detail

- 3.1 The Standards Committee has each year prepared an Annual Report summarising the work its work for the previous year.
- 3.2 The draft of the Annual Report for 2012/13 is attached at Appendix '1', includes the beginning of the new framework for Standards Committee from 1 July 2012. The Committee is asked to consider if this accurately reflects the work carried out of the last year, and to make any amendments

4. Alternative Options

- 4.1 It is good practice to make an Annual report on the work of the Committee, but this is a matter for the Committee to determine.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no financial or procurement implications of this report.

Legal and Human Rights Implications

- 5.2 There are no specific legal or human rights implications of this report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications that have been identified as important for this report.

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Standards Committee Annual Report

Standards Committee

Date: 15th July 2013

Links to One Swindon, Plans and Policies

- 5.4 Monitoring of issues of probity in the Council underpins the Council's plans and policies and the delivery of One Swindon objectives.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report, as it does not recommend a change in Council policy or service.

Risk Management

- 5.6 A risk assessment has not been completed in relation this report, as it does as it does not recommend a change in Council policy or service.

6. Consultees

- 6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 Appendix 1 – Draft Standards Annual Report for 1 July 2012 – 31 May 2013

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Swindon Borough Council

Standards Committee

Annual Report

1 July 2013 – 16 May 2013

Introduction

The requirement for Councils to have a Standards Committee with an independent Chair and independent members was abolished by the Localism Act 2011, and the Council's statutory Committee ceased on 30 June 2012.

The Council adopted a new Members Code of Conduct from 1 July 2012 and appointed a non-statutory Standards Committee to carry forward many of the functions of the previous statutory Committee. It has continued to promote high standards of conduct by Members of the Borough Council and Parish Councils in Swindon, and to assist them to observe their Code of Conduct. The Committee has sought to maintain the profile of probity and conduct in the Council.

This Annual Report is a record of the work of the statutory Standards Committee from 1st July 2012 to 16th May 2013.

Standards Committee Remit

The remit of the Standards Committee was to:

- Advise on the adoption and monitoring of relevant codes of conduct and behaviour.
- Oversee the Council's anti-fraud strategy and whistleblowing procedures
- Consider complaints received that Borough or Parish Councillors have breached the Members Code of Conduct, working through an Assessment Panel.
- Monitor complaints relating to breaches of all other codes and procedures
- Monitor and recommend training to Officers, Members and Parish Councillors in relation to the Council's ethical framework.
- Consider request for dispensations.

Membership of the Committee for 2012/13:

| Councillors | Co-opted Parish Representatives | Co-opted Lay Members |
|---|---|-------------------------------------|
| Cllr David Wood (Chair) Cllr Fay Howard Cllr Rex Barnett Cllr Richard Hurley (Vice-Chair) Cllr Mary Friend Cllr Doreen Dart (deputy until October 2012) <i>(Appointed at Annual Council)</i> | Mr Mike Compton Mr Richard Hailstone <i>(Appointed following nomination by the Swindon Area Committee of Parish Councils)</i> | Mr Trevor Davies Mr David Dawson |

Independent Persons

The Council appointed two Independent Persons (IPs) from 1 July 2012, to carry out the functions described by the Localism Act 2011 in respect of providing their views to complainants, Councillors and the Assessment Panel on complaints and the complaints process. Both were appointed following public advert. Mr Peter Morgans was completely new to the Council. Mr Paul Morris had been an Independent Member on the Standards Committee previously, and has been able to bring this experience to the role.

The IPs attended regional training on their new role in September 2012, and a draft IP protocol to set out the parameters of their work arose from the workshop training session drafted by Hoey Ainscough Associates Ltd. This was adapted by the Monitoring Officer to reflect Swindon circumstances and reviewed by the Committee in March 2013. Adoption has been deferred until the Swindon IPs have further time to discuss the protocol with the Monitoring officer, and is expected to be adopted during 2013/14.

Annual Report and Work Programme

The Committee agreed the Annual Report of its work for 2012/13 at the first full meeting of the new Standards Committee in October 2012. Under the Localism Act, the Council was required to specify a Committee which would receive Complaints under the Code of Conduct. The Council decided to continue with a stand-alone Standards Committee having this responsibility, and agreed it should retain its other work in overseeing the other Codes and Protocols of the Council and Whistleblowing Complaints. The Standards Committee met on four occasions between 1 July 2012 and 16th May 2013, and worked to its scheduled work programme. This included one special meeting, which was called to deal with dispensation applications.

Summary of Members Code of Conduct Complaints:

Set out below is a summary of the complaints received and dealt with by the Committee in 2012/13 compared to previous four years, relating to breaches of the Members Code of Conduct:

| Year | Complaints | No Further Action | Withdrawn | Referred for Monitoring Officer Action | Referred for Investigation | Breach | No Breach | Outcome Awaited |
|---------|------------|-------------------|-----------|--|----------------------------|--------|-----------|-----------------|
| 2008/09 | 14 | 13 | 0 | 0 | 1 | 1 | 0 | 0 |
| 2009/10 | 7 | 4 | 0 | 1 | 2 | 1 | 1 | 0 |
| 2010/11 | 12 | 4 | 4 | 0 | 4 | 0 | 4 | 0 |
| 2011/12 | 10 | 6 | 0 | 2 | 2 | 0 | 2 | |
| 2012/13 | 5 | 1 | 0 | 0 | 0 | 0 | 0 | 4* |

*All 4 complaints have subsequently been determined as requiring no further action.

Type of Complaints:

Of the 5 complaints received during 2012/13, 4 related to 3 Borough Councillors and 1 to a Parish Councillors. The complaints concerned related to a wide range of issues, including comments in ward literature, inappropriate comments in writing, on the phone or at a meeting and not responding to correspondence. All 5 complaints were from members of the public.

Processing of Complaints:

The new Standards Assessment Panel met on two occasions during the year. It carried out the first stage assessment of the complaints received and reviewed investigators reports arising from two complaints that were investigated under the old Code of Conduct from 2011/12 and agreed with the Investigator's recommendation that there was no breach of the Code. It also considered an investigator's report for a complaint under the Protocol of Member/ Officer Relations and made arrangements for a Hearing.

Investigations:

Where complaints had been referred for investigation the Monitoring Officer appointed an external investigator in order that he could continue to provide advice to the Standards Committee itself. In addition, two complaints under the Protocol of Member / Officer Relations had been referred to an Investigator.

The Monitoring Officer reviewed all completed investigations to ensure the quality of the investigation, final report and presentation to the Assessment Panel or Hearings Panel. The selection of external investigator was based on the quality of work carried out, and the cost was benchmarked against a call-off contract to ensure value for money was achieved.

The cost of investigators and other legal fees paid during the period July 2012 to May 2013 was £14,496 (£10,496 on Code of Conduct Complaints, and £5,470 on Protocol of Member / Officer Relations Complaints). All costs related to complaints which had been submitted prior to July 2012.

Monitoring of Complaints:

The Standards Committee received a brief summary of the progress of Code of Conduct complaints at each meeting during the year.

Breaches of the Member / Officer Protocol

At each meeting of the Committee, the Monitoring Officer also reported as to whether or not any complaints had been received under the Member / Officer protocol. No complaints were received under the Protocol of Member / Officer relations during 2012/ 2013.

The investigator's report from the one outstanding complaint from 2011/12 was considered at a Hearing on 19th October 2012. The Councillor was found to have breached the Protocol, and was asked to provide an apology and undertake training. Both have been completed.

The Monitoring Officer has continued to work behind the scenes in discussion with senior officers and political groups, in relation to any incident, which he has been made aware of informally.

Monitoring of Whistleblowing Complaints

Throughout the year, the Standards Committee has continued to monitor complaints received against Officers under the Council's Whistleblowing policy, being notified of new complaints and the progress and outcomes of investigations, and considering learning points which arise. During 2012/, 3 new whistleblowing cases were received and investigated. 1 has resulted in a disciplinary action, and 2 were found to be unsubstantiated. However, in the latter two cases, additional internal controls were identified in the work areas concerned to improve future work practice.

The Committee noted at its March 2013 meeting that controls had improved as a result of two of the Whistleblowing cases and asked the Director of Law and Democratic Services to investigate whether any of the complainants had received any unfavourable treatment as a direct result of making the complaint. This was a matter that the Director would report back on in 2013/14 following discussions with the Head of Internal Audit.

The Localism Act 2011 and the Standards Regime

The new standards regime came into operation in July 2012, having been recommended to Council at the last statutory meeting in June.

The Committee was due to carry out a review of the Code of Conduct and the adopted process at its meeting in January 2013. This was deferred to the 2013/14 work programme as, having only dealt with one complaint at that point, the Committee felt it was difficult to judge the success of the processes to date. However, the Committee did amend the pre-ample to the Members Code of Conduct at its March 2013 meeting to reflect the revised description of the seven principles of public life which were set out in the 14th Report of the Committee on Standards in Public Life. This amendment was also endorsed by the Corporate Governance Review Working Group.

The Committee would usually carry out a review of all its Codes and Protocols at its meeting in October. However, as many of these had been amended to reflect the Localism Act 2011 changes and the new Code of Conduct, the Committee deferred any further review until 2013/14.

Desktop Ethical Audit

The Standards Committee completes an annual Desktop Ethical Audit, based on that designed by the IDeA to assess that it has all governance requirements in place.

The annual review and update was approved by the Committee in October 2012.

Standards Exchange

The Committee at its meeting in March 2013 endorsed the Monitoring Officer signing up to an interactive website, Standards-Exchange. This site is designed to be a repository of knowledge and good practice in relation to standards matters.

Leader and Chief Executive Question and Answer Session

The Leader of the Council, and the Chief Executive, attended the meeting in January 2013 to discuss the Council's approach to ethical governance, and their key priorities in relation to ensuring that high ethical standards are promoted and maintained within the Council. This is an annual session for the Standards Committee to discuss Ethical Governance issues, with the Political and Officer leadership of the Council.

The discussion included:

- Recognition that it had been a year of transition for the Standards Committee to working under the new arrangements set up under the Localism Act 2011 and an acknowledgment that the arrangements seemed to be working well.
- Recognition of the good working relationships in the Council between Members and Officers, and Members and Members. It was recognised that the Group Leaders had a key role to play to continue this by asking their Councillors to make sure that political attacks in meetings were directed at policy and not personal.
- Praise for the work carried out by the Monitoring Officer during the last year, in his robust professionalism in dealing with increasingly difficult and complex situations.
- The continuing growth of social media, and the difficulties that presents for Councillors knowing how and when to engage, and ensuring that their contributions are compliant with the Media Guidelines for Councillors and the Member Code of Conduct, which had been updated to take into account this growth.
- How to engage effectively with local communities and local people, in a way which was clear and constructive.

Annual Governance Statement

The Committee at its meeting in March 2013 was consulted on the arrangements for preparing the Council's Annual Governance Statement, including the areas and questions which Board Directors and Directors were asked to give assurance on.

This is important as the Annual Governance Statement is the formal statement that recognises, records and publishes the Council's governance arrangements.

Standards Exchange

The Committee at its meeting in March 2013 endorsed the Monitoring Officer signing up to an interactive website, Standards-Exchange. This site is designed to be a repository of knowledge and good practice in relation to standards matters.

Training

The Committee has continued to assure itself by regular updates that appropriate ethical training of Borough Councillors and Parish Councillors is taking place, including reports to its October 2012, January 2013 and March 2013 meetings. The Monitoring Officer provided induction training to all new Members of the Council following Borough Elections in 2012. This covered ethics, probity and governance matters, including an overview of the Council's constitution, Members Code of Conduct and Declarations of Interest. All members of the Planning Committee and Licensing Committee have received the necessary training, prior to sitting on these Committees.

Parish Councils

The Standards Committee has continued to monitor training for Parish Councillors and offered assistance where required, as an important part of its role. The Committee has received an update at each of its meetings on local Parish Councils, and the Monitoring Officer has carried out a number of training sessions for Parish Councils during the year.

One of the duties under the Localism Act 2011 was for Parishes to determine which Code of Conduct to adopt, and to publish their own Councillors Registers of Interest on their websites. The Council was also required to hold a copy of the registers on their website. Three local Parish Councils chose to adopt Codes of Conduct in line with recommendations from the National Association of Local Councils. The remaining 11 Parishes have sought to adopt similar Codes to that of the Borough Council. The latter is not a requirement, but has made it easier for the Monitoring Officer to provide training. The Committee received an update at its meeting in October of how Parishes were progressing with adopting codes and publishing registers on both their own and the Council's website.

The Monitoring Officer chaired quarterly meetings of Parish Clerks in the Borough throughout the year, and the Ethical Framework was a standing item on the agenda, with any issues arising able to be reported back to the Standards Committee. In addition, quarterly liaison meetings were held between Parish Councillors and representatives of the Borough Council to promote and maintain the Borough / Parish Charter, which is an important part of decision-making and proper consultation between the Borough and the Parishes.

Complaints on Ethical Standards

The Council monitors complaints received from members of the public in relation to its operation and decision-making. No complaints were received during the 2012/13 Municipal Year that related to the ethical standards of the authority.

Dispensations

Under the arrangements for implementing Localism Act 2011, the Council agreed that the role of granting dispensations should be designated to the Standards Committee.

At its meeting in October, the Committee were advised that the Localism Act 2011 and its regulations had not included an automatic exemption for Councillors members from having a prejudicial interest when setting the Council Tax or Precept.

As a result it was necessary for each Councillor to apply in writing to the Standards Committee under Section 33 of the Act, for a dispensation to enable them to participate in any matter which had a bearing on the setting of the council tax or a precept. All Councillors had submitted applications for a dispensation to set the Council Tax and the Standards Committee approved these for a period of 4 years until 14th October 2016.

The parish representatives present requested the Monitoring Officer to write to Parish Clerks to alert them to the need to make arrangements for Parish Councillors to receive similar dispensations from for their own budget and precept setting meetings.

A special meeting of the Committee was held in December, to consider applications for Dispensations for Councillors who might be affected by the vote on two reports on the Cabinet and Council agenda, relating to Discounts and Exemptions for Council Tax and the Council Tax Support Scheme and these were granted.

In addition, it was agreed that to save the need to hold Special Meetings of the Standards Committee on a regular basis, that the Monitoring Officer in consultation with the Chair of the Committee should have delegated authority to deal with other urgent applications for dispensations received in between scheduled Standards Committee meetings, with a list of any granted being reported to the next meeting.

No further applications for dispensations have been received during 2012/13.

Summary

The Standards Committee had a busy 2012/13, with the abolition of the statutory standards framework, and the start of working in a new way, with solely Councillors able to formally vote, having regard to the views of the co-opted members and Independent Persons.

The Committee has continued to promote and monitor ethical standards in the authority and with local parish Councils, and has sought to actively promote and enhance the Council's openness, accountability and probity, in its own work and that with its partners.

Annual Work Programme

Standards Committee

Date: 15th July 2013

| | |
|--------------------|---|
| Author: | Director of Law and Democratic Services |
| Wards: | All |
| Locality Affected: | All |
| Parishes Affected: | All |

1. Purpose and Reasons

- 1.1 To ask the Committee to agree its Work Programme for meetings in 2013/14.

2. Recommendations

The Committee is recommended to:

- 2.1 Consider and agree its Work Programme for 2013/14.

3. Detail

- 3.1 An outline work programme for the Committee for the rest of 2013/14 is attached at Appendix '1' for the Committee to discuss and agree its priorities for the year. This is based upon the anticipated work for the Committee during the year, but can be adapted in response to any other matters which arise.

4. Alternative Options

- 4.1 There are no alternative options for this report. It is good to agree a work programme for the ensuing year, but this is a matter for the Committee to determine.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no financial or procurement implications of this report.

Legal and Human Rights Implications

- 5.2 There are no specific legal or human rights implications of this report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications that have been identified as important for this report.

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Annual Work Programme

Standards Committee

Date: 15th July 2013

Links to One Swindon, Plans and Policies

- 5.4 Monitoring of issues of probity in the Council underpins the Council's plans and policies and the delivery of One Swindon objectives.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report, as it does not recommend a change in Council policy or service.

Risk Management

- 5.6 A risk assessment has not been completed in relation this report, as it does as it does not recommend a change in Council policy or service.

6. Consultees

- 6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 Appendix 1 – Draft Work Programme for 2013/14

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Standards Committee
Work Programme for 2013 / 2014

The following work programme is proposed:

| Meeting | <u>Agenda Item</u> |
|---|--|
| 15 th July 2013 | <ul style="list-style-type: none"> • Work Programme • Annual Report • Consider reference from Children & Young People Overview Committee. |
| 17 th September 2013 | <ul style="list-style-type: none"> • Consideration of any recommended updates to Codes and Protocols • Update to the Council's Ethical Audit Self-Assessment • IP Protocol Updates |
| 27 th January 2014 | <ul style="list-style-type: none"> • Update on Parish Councillor Training • Question and Answer Session with Leader and Chief Executive on Ethical Governance Arrangements • |
| 4 th April 2014 | <ul style="list-style-type: none"> • Consideration of Annual Governance Statement process • Review of the working of the Revised Code of Conduct • Review of Committee Membership |
| Regular Items: | <ul style="list-style-type: none"> • Ethical Update Report • Ethical Compliance Report. • Monitor complaints under the Council's Anti-Fraud and Corruption Strategy and Whistleblowing Policy. • Receive updates on complaints against Councillors. • Receive updates on continuing close work with Parish Councils on Ethical Framework Issues. • Updates on training for Officers, Councillors and Parish Councillors in respect of ethical framework issues. • Updates on requests for dispensations |
| Other reports and Meetings as required: | <ul style="list-style-type: none"> • Consideration of Code of Conduct Complaints. • Urgent ethical and probity issues as they arise. • Responding to Government Guidance, Regulations and Consultations as issued. |

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Ethical Framework Update

Standards Committee

Date: 15th July 2013

| | |
|--------------------|---|
| Author: | Director of Law and Democratic Services |
| Wards: | All |
| Locality Affected: | All |
| Parishes Affected: | All |

1. Purpose and Reasons

- 1.1 To provide an update on various matters related to the Ethical Framework, to keep the Committee informed of issues of probity in the Council.

2. Recommendations

The Committee is recommended to:

- 2.1 note the Ethical Framework update and that nominations for 2 members of the Committee are awaited from the Swindon Area Committee of the Wiltshire Association of Parish Councils;
- 2.2 consider what guidance to issue to councillors in relation to making comments on issues relating to school openings or closures; and
- 2.3 adopt the Independent Persons protocol, as set out in Appendix 3 to this report, subject to any changes made by the Committee.

3. Detail

Reference from Children and Young People Overview Committee

- 3.1 At its meeting on 27th March 2013, the Children and Young People Overview Committee considered a review into Opening and Closing Schools.
- 3.2 One of the recommendations from the Committee was 'That the Standards Committee be asked to consider whether guidance should be given to members regarding the specific matter of making comments on any instances of School openings or closures'. A copy of the minute of the meeting is attached at Appendix 1.
- 3.3 The Standards Committee is asked to consider if the issuing of any guidance to Councillors is appropriate and, if so, what form that guidance should take.

Committee on Standards in Public Life

- 3.4 In the Committee on Standards in Public Life's Annual Report, reported at the last meeting, it has been indicated that it was likely to undertake a review of the standards regime under the Localism Act in 2014/15, due to its feeling that the

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Ethical Framework Update

Standards Committee

Date: 15th July 2013

lack of sanctions and independent scrutiny is having an impact on public confidence in Local Government.

- 3.5 An article on this matter, extracted from Local Government Lawyer of January 2013 on this matter is attached at Appendix 2.
- 3.6 The Director of Law and Democratic Services will keep the Committee updated on any review that might be undertaken in respect of the Standards Regime.

Dispensations

- 3.7 Section 33 of the Localism Act 2011 enables members who consider that they may have a disclosable pecuniary interest (DPI) to apply for a dispensation to allow them to speak and vote. No such dispensations have been granted by the Monitoring Officer in consultation with the Chair of the Standards Committee, since the last meeting.

Independent Persons Protocol

- 3.8 The Independent Persons attended a workshop in September 2012, which discussed the role of the Independent Person. Subsequently, an Independent Persons Protocol was prepared and circulated by those running the workshop (Hoey Ainscough Associates Ltd).
- 3.9 The Council has complete discretion as to whether to adopt a protocol for its Independent Persons or not. This was a generic document and the Monitoring Officer has amended it to accord with the arrangements that the Council has adopted for considering Code of Conduct Complaints.
- 3.10 A suggested draft protocol for this Council, attached at Appendix 3, was presented at the last Committee. This was deferred to allow further consideration by the Independent Persons. The Independent Persons have not yet been in a position to take this forward and will report back to the meeting.
- 3.11 In addition, one of the Independent Persons has met with the Independent Person(s) of Wiltshire Council and will report back to the meeting on matters discussed.

Ethical Framework Update

Standards Committee

Date: 15th July 2013

Membership of the Committee

Members are advised that the Swindon Area Committee of the Wiltshire Association of Local Councils has put forward three nominations for parish council representation on the Standards Committee. As there are only two places on the Committee allocated for Parish Council representatives, the Area Committee has been advised of the situation and have been asked for just 2 nominations. Members will be updated at the meeting.

Training

- 3.12 There were no Council elections in May 2013 this year and therefore no induction training has needed to be carried out. All Councillors involved in Planning and Licensing Committees have attended training prior to sitting on Committees and discussions are taking place on the potential for other training for Councillors. The outcome of these discussions will be considered by the Member Development Training Group in due course.
- 3.13 The Monitoring Officer carried out Code of Conduct training at Chiseldon on 26th March 2013 which was attended by 14 Parish Councillors and 3 parish clerks from 4 parishes.. He also carried out training on chairing skills and other matters at Wroughton on 3rd July 2013 which was attended by 2 parish clerks and 11 parish councillors from 4 parish councils.

4. Alternative Options

- 4.1 Any alternative options are set out in the body of the report.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 Any financial or procurement implications will be contained within the existing budget.

Legal and Human Rights Implications

- 5.2 The legal and human rights implications, where applicable, are set out in the body of the report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications that have been identified as important for this report.

Ethical Framework Update

Standards Committee

Date: 15th July 2013

Links to One Swindon, Plans and Policies

- 5.4 Monitoring of issues of probity in the Council underpins the Council's plans and policies and the delivery of One Swindon objectives.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report, as it does not recommend a change in Council policy or service.

Risk Management

- 5.6 A risk assessment has not been completed in relation this report, as it does as it does not recommend a change in Council policy or service. Arrangements for meeting the requirements of the Localism Act and monitoring probity of the Council, ensures that good governance is maintained and protects the reputation of the organisation.

6. Consultees

- 6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 Appendix 1 – Reference from Children and Young Peoples Overview Committee
- 8.2 Appendix 2 – Article from Local Government Lawyer.
- 8.3 Appendix 3 – Suggested Independent Persons' Protocol

**MINUTE 45 (2012/13) OF THE MEETING OF THE
CHILDREN AND YOUNG PEOPLE'S OVERVIEW AND SCRUTINY
COMMITTEE HELD ON 27TH MARCH 2013**

The Chair introduced the report on the review of opening and closing of schools and welcomed Mr Keith Carby, Chair of the Review Group and Mr David Wilkie to the Committee.

Mr Keith Carby, Chair of the Review Group, apologised for the late presentation of the report and advised that this was due to a number of factors including the availability of people, and the late submission of information regarding Northview School. He further reiterated the independence, impartiality and integrity of the Review Group who carried out this work in an unpaid capacity and undertook it as a civic duty. The Committee noted Mr Carby's assurance that the report was compiled by the Review Group without assistance by any outside parties and Mr Keith Carby confirmed that the Review Group's remit was solely concerned with reviewing the overall procedures for opening and closing schools in Swindon and did not relate to the merits as to where a particular school should be built.

Mr Kieth Carby summarised the report and in conclusion confirmed that all statutory processes were correctly followed and no Council failures were identified but the report did identify ways in which the consultation process could be improved. He referred to communication during the process and advised that whilst responses to questions from groups and individuals were good, overall communication with the community was identified as an issue.

The Committee welcomed the report and commented on the following points:

- The validity of the Review Group's Terms of Reference.
- The choice of Croft over other areas in the Central Area.
- Issues with traffic access to Croft.
- Public consultation over the Croft site.

Mr Carby responded by confirming the remit had been agreed by the Committee (Minute 6 refers, Work Programme 2012/13) and that this remit did not include location choices and site traffic issues.

The Committee agreed with the Review Group's findings and noted the need for full, transparent and documented consultation processes to be undertaken in any future consultations relating to the opening and closing of schools within the Borough.

Resolved – (1) That the report on the review into the opening and closing of schools within the Borough of Swindon, be noted and its recommendations be endorsed.

(2) That the Committee refers the Review to the Cabinet member for Children's Services and the Board Director of Commissioning to ensure that the following recommendations set out in the Review are fully taken into account in any future opening or closing of schools:

- a. When the prospect of a school being opened or closed occurs in the future all the Members and Officers directly involved should receive a paper from the Director of Law and Democratic Services reminding them of the Authority's obligations to the public, especially to residents and parents in the locality of the school(s) that might be affected. This paper should make crystal clear why, how and when the public will be asked to get involved. In particular, the advice to all Members and Officers should be explicit and plain regarding the nature of any "consultation". The public needs to know which matters they can influence and which are already decided.
- b. Once the process is underway, the Director of Law and Democratic Services should send out reminders and updates at all key points in the process and as dictated by events.
- c. A fully trained Communications Officer/Team should be nominated for all School openings and closings. The nomination should be made as early as possible in the process. This Officer, leading his/her Team, should be made accountable and responsible for all consultation and the associated communications. This should include coordinating responses to all complaints. This will ensure consistency of approach and ensure information is correctly attributed and distributed and complaints are, wherever possible, resolved.
- d. A Communications Plan should be drawn up for such projects and should include sufficient time to deal with complaints and residents concerns. The Plan should feature the timelines for all aspects of the Communications process. Engagement with the public should begin as early in the process as possible when considering opening or closing a school so that the views of stakeholders can be taken into account – and be seen to be taken into account. At all times and stages, the nature of, and motive for consultation should be made explicit. Timeframes for the consultation should be proportionate and realistic to allow stakeholders sufficient time to provide a considered response. These matters should be decided on a case by case basis depending on the specific circumstances surrounding a school opening or closing.
- e. Prior to any consultation with the public, a document should be created detailing the reasons for the decision to open or close a school. The process used to arrive at the decision and the people and bodies involved should be made clear. That document should be publicised as the first step in any consultation exercise. The key questions being asked should also be set out simply and clearly. Consultation Meetings should be formally recorded and minuted to try and avoid the disputes of "who said what to whom".
- f. When commissioning research and the resulting Feasibility Studies in the future, Swindon Borough Council should use a standard document or template that sets out the minimum requirements for such work. This will not only provide the public with knowledge of what the Council always asks external consultants to deliver in these circumstances, but will allow, over time, interested parties to better contribute to any debates over what was taken into account and to have a greater appreciation of how and why the eventual decision was made. Such an approach would also maximise the chances that the new learning gained in every instance of a School opening or closing could be captured and assimilated.

- g. The Standards Committee should be asked to consider whether guidance should be given to Members regarding the specific matter of making comments on any instances of School openings or closures.**

(3) That Mr Keith Carby, Mr David Wilkie and Ms Wendy Hall, members of the Review Group, be thanked for their hard work in conducting this Review.

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The Committee for Standards in Public Life has placed the post-Localism Act local government standards regime on a 'watching brief' saying the lack of available sanctions and independent scrutiny risked damaging public confidence in the probity of local government.

In its review of best practice in the public sector, Standards Matter, the committee said that while it supported the principle of devolved responsibility for standards, the absence of these features meant that some local authorities were at risk of failing to bring their members to account. It said that it would keep an eye on developments and investigate the effectiveness of the regime if that became necessary.

The committee's report highlighted authorities with a single dominant political party in control and rural authorities with a high proportion of independent members as being at the highest risk of member misbehaviour.

The report said: "Prime responsibility for maintaining high standards of behaviour must always lie with individuals and organisations, not with external regulation. We welcome therefore the intention behind the Localism Act 2011 to encourage a greater sense of local responsibility for standards and to address some of the more vexatious and disproportionate aspects of the local government standards regime.

"[However] we have other concerns about the new arrangements which apply even in those authorities where strong leadership on standards does exist. The first is that under the previous arrangements local authorities had the power to suspend members for varying periods of time as a sanction against poor behaviour.

"The only sanctions now available, apart from through the use of party discipline, are censure or criminal prosecution for deliberately withholding or misrepresenting a financial interest. We do not think these are sufficient. The last few years have seen a number of examples of inappropriate behaviour which would not pass the strict tests required to warrant a criminal prosecution, but which deserves a sanction stronger than simple censure. Bullying of other members or officers is one category of offence which will be difficult to deal with adequately under the new arrangements. "

The report expressed concern that the provisions for external involvement in the member disciplinary process. Prior to the Localism Act, standards committees were independently chaired by individuals who were not themselves members of the local authority. Since the Localism Act came into force, local authorities are now only required to appoint at least one independent person whose views it will seek, and take into account, before making its decision on an allegation that it has decided to investigate.

“We doubt that this will be sufficient to provide assurance that justice is being done and, equally important, that it is seen to be done.” the committee said. “Where powers to regulate standards are devolved to promote local responsibility and leadership, care should always be taken to ensure that there is independent scrutiny, that the results of such scrutiny are made publicly available and that those who have responsibility for imposing sanctions have adequate legal or other powers to do so.”

The Committee for Standards in Public Life also identified a growing “generic” risk to public probity created by new governance arrangements, such as elected mayors and elected police and crime commissioners, and new models of service delivery, such as academy schools and the outsourcing of public services. It urged the commissioners of outsourced services to put ethical issues at the top of the agenda when designing and procuring new providers.

“Some of these new ways of working will entail services being delivered by people not previously involved in public service, or in different roles from those they previously occupied,” the report said. “Public servants designing and commissioning services should, in a consistent and proportionate way, address ethical issues throughout the procurement process. Contractors and others should acknowledge the particular responsibilities they bear when delivering public services, paid for by public money, to individuals who may not have the choice of going elsewhere.”

In general, the committee concluded that while the infrastructure to support high standards in the UK has developed considerably since 1995 when the Committee published its first report, this had not been accompanied by an improvement in public confidence. “Instead there has been a significant and consistent decline in levels of public trust and confidence in the integrity of public office-holders and institutions,” the report concluded.

A full copy of the report can be downloaded from the following link: http://www.public-standards.org.uk/Library/Standards_Matter.pdf

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DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON

SWINDON BOROUGH COUNCIL

This protocol is to make clear the relationships between an Independent Person (IP) and the various parts of the Borough Council involved in the process of handling standards complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process.

Considering written allegations

1. The Assessment Panel will seek the views of an Independent Person (IP) and take those views into account before reaching a decision on whether any further action should be taken on a written complaint.

Matters under investigation

2. A Borough Councillor or a Town / Parish Councillor who is the subject of a complaint may seek the views of an IP. A member wishing to contact an IP should do so via the Monitoring Officer (MO) who will arrange for contact details to be provided.
3. Where an IP has given views to the subject member, it will be a matter for the subject member and the IP as to whether those views shall be put in writing.
4. The IP will need to agree in advance with the subject member rules of confidentiality, but it will be up to the IP to decide whether matters should remain confidential.
5. The MO may consult an IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.
6. Where a matter has been referred to a Standards Committee for determination, the Committee must seek the views of an IP before reaching its conclusions. Where appropriate these views will be recorded in the decision notice. However, it must be clear that it is the Standards Committee and not the IP who is the decision-maker.
7. An IP shall not make any comments to the media on any matter without prior agreement of the MO or the council communications team. Any requests for comments from media shall be referred in the first instance to the MO who may refer these to the Chair of the Standards Committee as appropriate.
8. An IP may be requested by the MO or Standards Committee to assist in mediation or conciliation in order to resolve complaints, where that is considered the most appropriate course of action.

9. An IP may be requested by the MO or Standards Committee to assist in any training on conduct issues as appropriate.

Relationship with the Standards Committee

10. The IPs shall receive agendas and minutes of all meetings of the Standards Committee and can request that an item is added to the agenda with the agreement of the Chair, and to speak at the Committee.
11. The IPs are not members of the Standards Committee and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the Chair.

Other matters

12. An IP has the right to raise any concerns about standards issues or implementation of the process with the MO who shall take whatever action he deems appropriate.
13. The Council, through its Standards Committee and MO, is responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, an IP may be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.
14. An IP has no right of access to any confidential information unless agreed with the MO.
15. The IPs will agree to sign a code of conduct, including a register of interests to be held by the MO and will declare any relevant interests in relation to cases to the MO, who will decide whether the interest conflicts them out of involvement in the matter.
16. The IPs are to be considered an office-holder of the authority in accordance with the duty under s28(7) of the Localism Act 2011 and are therefore entitled to be covered by the council's indemnity insurance provided they act reasonably and within the terms of this Protocol.
17. The IPs will receive an annual allowance and be entitled to claim for travel, subsistence or childcare expenses associated with their duties. The level of remuneration will be set by the Council, taking into any recommendations of the Independent Remuneration Panel.

Stephen P Taylor, Monitoring Officer
7th March 2013

Agenda Item 10

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

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