

Swindon Borough Council

Standards Committee

Monday, 7 October 2013

Committee Room 6, Civic Offices

At 5.00 p.m.

Councillors

Michael Bray
Roderick Bluh
Brian Ford
Toby Elliott (Deputy)
(Conservative)

Fay Howard
Teresa Page
(Labour)

David Wood (Chair)
(Liberal Democrat)

Co-opted Representatives

Mr Trevor Davies
Mr David Dawson

Parish Council Representatives

Mr Mike Compton
Mr Richard Hailstone

Independent Persons for Information:

Paul Morris
Peter Morgans

Committee Officer: Steve Jones (Telephone 01793 463602)
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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 - 4)

To receive the minutes of the meeting held on 15 July 2013

4. Public Question Time

(See explanatory note below. Please phone the Committee Clerk whose name and number appears at the top of this agenda if you need further guidance.)

5. Exempt Items - Exclusion of Press and Public

Certain items are expected to include the consideration of exempt information and the Sub-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> |
|-----------------|----------------------|
| 7 | 1 and 2 |

6. Ethical Framework Update DLDS (Pages 5 - 36)

7. Ethical Compliance Report DLDS (Pages 37 - 40)

26 September 2013 (being date of agenda despatch)

Key:

DLDS - Director of Law and Democratic Services

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

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

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

Standards Committee - Terms of Reference

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

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;

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

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

- (o) approve the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (p) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (q) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (r) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

STANDARDS COMMITTEE

MONDAY, 15 JULY 2013

PRESENT:- Councillor David Wood (Chair), Councillors Fay Howard, Teresa Page, Michael Bray and John Haines, Mr Trevor Davies and Mr David Dawson (Co-opted representatives) and Mr Paul Morris and Peter Morgans (Independent Persons).

1. **Introductory Remarks**

At the invitation of the Chair, the Director of Law and Democratic Services commented on the position regarding Parish Council representation on the Committee. The Director explained that the Swindon Area Committee of the Wiltshire Association of Local Councils had initially put forward three nominations, for only two vacancies that exist on the Committee for Parish Council representation, and that revised nominations were awaited. The two former Parish Council representatives on the Committee were in attendance and it was explained that, for this meeting, they would be public observers only.

2. **Appointment of Vice-Chair**

Resolved – That Councillor Mick Bray be Vice-Chair of the Standards Committee for the Municipal Year 2013/14.

3. **Declarations of Interest**

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

4. **Minutes**

Resolved – That the minutes of the meeting held on 18th March 2013 be confirmed and signed as a correct record.

5. **Public Question Time**

Ms Kareen Boyd, a resident of Hesketh Crescent, referred to the Committee's Annual Report and asked if the content had been agreed with the two local Members of Parliament. At the Chair's request, the Director of Law and Democratic Services responded to Ms Boyd's question.

Ms Boyd put a second question, asking who had determined that the public and press be excluded from the Committee's consideration of Agenda Item 10 ("Ethical Compliance Report"). At the Chair's request, the Director of Law and Democratic Services responded to Ms Boyd's question.

Carole Bent, a resident of Old Town, asked about the percentage of complaints made by members of the public over the last 12 months that had been upheld by the Standards Committee. At the Chair's request, the Director of Law and Democratic Services responded to Ms Bent's question.

Ms Bent put a second question to the meeting. She referred to comments she said had been made by Robert Buckland MP regarding the Council's standards procedures and asked what the Committee might do differently in the coming year to improve public confidence in its elected representatives and public institutions. At the Chair's request, the Director of Law and Democratic Services responded to Ms Bent's question. In addition, the Chair requested that Ms Bent provide him with details of the particular comments, attributed to Mr Buckland, that she had referred to in putting her question.

6. Exempt Items - Exclusion of Press and Public

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 item listed below on the grounds that it involved the likely disclosure of exempt information as defined in the respective paragraphs of Part 1 of Schedule 12A of the Act.

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

7. Standards Committee Annual Report

The Committee was asked to consider its Draft Annual Report 2012/13, which document provided a record of the work of the Standards Committee for the period 1 July 2012 to 16 May 2013.

Resolved – (1) That the Draft Standards Committee Annual Report 2012/13 be agreed, subject to the correction of textual errors in the document identified by members during their consideration of the report.

(2) That, with reference to members' comments during their debate of this item, the Director of Law and Democratic Services prepare a Press Release aimed at raising public awareness of the Standards Committee and its role in promoting and maintaining high standards of conduct by councillors and co-opted representatives, the release to particularly emphasise the ways in which members of the public can refer matters to the Monitoring Officer and, subsequently, the Committee for consideration.

(3) That the former clerk for the Committee, Sarah Lawrence, be advised of members' thanks for her work in compiling its Draft Annual Report 2012/13.

8. Annual Work Programme

The Committee considered a report of the Director of Law and Democratic Services inviting the Committee to agree its Work Programme for 2013/2014.

Resolved – (1) That, subject to (2) and (3) below, the Committee's Work Programme for 2013/2014, as appended to the report, be agreed.

(2) That it be noted that the Committee's proposed consideration at its next meeting of updates to the Independent Persons Protocol would be dependent on the Independent Persons meeting with the Director of Law and Democratic Services beforehand to discuss issues relating to the suggested draft protocol.

(3) That the Committee Clerk confirm, and advise members of, the scheduled dates of Standards Committee meetings in the Municipal Year 2013/14.

9.

Ethical Framework Update

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

- a reference from the Council's Children and Young People Overview and Scrutiny Committee
- a proposed review of the standards regime by the Committee on Standards in Public Life
- dispensations
- the adoption of the Independent Persons Protocol
- the membership of the Standards Committee
- training issues.

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

(2) That the Director of Law and Democratic Services report to the next meeting on the issue of possible guidance for members in relation to invitations to comment on instances of school openings or closures.

(3) That the indication from the Committee on Standards in Public Life, of its intention to undertake a review in 2014/15 of the standards regime under the Localism Act arrangements, be noted and that the Director of Law and Democratic Services provide updates as necessary following any such review.

(4) That it be noted that no dispensations had been granted by the Monitoring Officer since the last meeting.

(5) That the adoption of the Independent Persons Protocol, appended to the report, be further considered after the Independent Persons have met with the Director of Law and Democratic Services to review the draft protocol and to discuss related issues, including the adoption of the code by other authorities and the role of the Hoey Ainscough Associates Ltd.

(6) That it be noted that revised nominations were awaited from the Swindon Area Committee of the Wiltshire Association of Local Councils in respect of the two Parish Council vacancies on the Committee.

(7) That the issues reported in relation to member and Parish Councillor training be noted.

10.

Ethical Compliance Report

The Committee considered a report of the Director of Law and Democratic Services regarding the outcome of various ethical framework compliance matters, including the details of Whistleblowing cases received since the last Committee and the outcome of any completed investigations in relation to these, the whistleblowing protocol and the issues of protecting complainants from possible unfavourable treatment, and the outcome of Code of Conduct Complaints received since the last meeting.

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

(2) That it be noted that the Director of Law and Democratic Services was liaising with the Head of Internal Audit on the issue of the whistleblowing protocol and the protection of complainants from unfavourable treatment and would report to a future meeting on the matter.

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Ethical Framework Update

Standards Committee

Date: 7th October 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.
- 2.2 Adopt the Independent Persons Protocol attached at Appendix 1, subject to any further comments from members.
- 2.3 Endorse the Ethical Audit Desktop Analysis attached at Appendix 2, subject to any comments from members.

3. Detail

Reference from Children and Young People Overview Committee

- 3.1 At its meeting on 15th July 2013, following consideration of a reference from the Council's Children and Young People Overview Committee, the Standards Committee asked that the Director of Law and Democratic Services report on the issue of possible guidance for members in relation to invitations to comment on instances of school openings or closures.
- 3.2 Work on this is on-going and I will report further at a future meeting.

Dispensations

- 3.3 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

- 3.4 The Independent Persons attended a workshop in September 2012, which discussed the role of the Independent Person. Subsequently, an Independent

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: 7th October 2013

Persons Protocol was prepared and circulated by those running the workshop (Hoey Ainscough Associates Ltd).

- 3.5 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.
- 3.6 A suggested draft protocol for this Council was presented at the last Committee. Consideration of the protocol was deferred to allow the Independent Persons to meet with the Director of Law and Democratic Services to review the draft protocol and to discuss related issues, including the adoption of the code by other authorities and the role of the Hoey Ainscough Associates Ltd.
- 3.7 The Independent Persons met with the Director of Law and Democratic Services on 25th July, and an updated draft Protocol is attached at Appendix 1.

Membership of the Committee

- 3.8 Members were advised at its last meeting that the Swindon Area Committee of the Wiltshire Association of Local Councils had put forward three nominations for parish council representation on the Standards Committee but that, as there are only two places on the Committee allocated for Parish Council representatives, the Area Committee had been asked for just 2 nominations.
- 3.9 Subsequently, at their meeting on 19th September 2013, the Swindon Area Committee nominated Mike Compton and Richard Hailstone as the Parish Council representatives.

Consideration of any recommended updates to Codes and Protocols

- 3.10 In the annual work programme approved at the beginning of the year, it was agreed that the Standards Committee would consider any recommended updates to Codes and Protocols.
- 3.11 There are no recommended updates at this stage but further work is on-going and a report will be submitted to the next meeting.

Update to the Council's Ethical Audit Self-Assessment

- 3.12 The Committee last reviewed the Desktop Ethical Audit at its meeting in October 2012, and it was agreed that this should be updated on a regular basis.
- 3.13 The latest Desktop Ethical Audit is attached at Appendix 2 for the Committee to review.

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: 7th October 2013

Revisions to Plain English Guide - Openness and transparency on personal interests: A Guide For Councillors

- 3.14 Copies of the Department for Communities and Local Government's revised Plain English Guide for Councillors on openness and transparency on personal interests and its revised illustrative text for a code of conduct for members and co-opted members of local authorities are attached at Appendix 3. Members will be aware that the Council did not adopt the DCLG recommended Code as it considered the previous model code to be preferable. Accordingly, the Council's own code of conduct for members does set out the position in more detail.
- 3.15 The guide sets out the Government's view as to how councillors should treat their personal interests and has been revised with new guidance making it clear that councillors should treat Trade Union membership as a personal, non-pecuniary interest which should be registered and declared. The illustrative code has been revised to reflect the same guidance. This is already the case under the Council's own Code and it could, therefore, be argued that the Government is gradually moving back towards the ethical framework in place under the previous model code.
- 3.16 Further, the Government's view is that where a Councillor is sponsored by a Trade Union, this constitutes a disclosable pecuniary interest and as such must be registered and declared.
- 3.17 Hoey Ainscough Associates Ltd have advised that they are currently analysing the implications for members, councils and their codes of conduct shortly and will publish this on the Standards Exchange.

Training

- 3.18 Attached at Appendix 4 is a record of all the member training events that have taken place so far this Municipal Year and details of proposed training events to be held over the remaining period of the year.
- 3.19 Discussions have taken place on the potential for additional training for Councillors and the Committee is advised that a report will be submitted to the Member Development Advisory Group meeting in October seeking the views of the Advisory Group on (i) specific proposals for Member Training and Development to support Councillors in carrying out their various roles, and (ii) revised induction proposals for newly appointed members.
- 3.20 At present, a number of sessions are held by the Monitoring Officer each year around the parishes to train parish councillors on the ethical framework and chairing skills. Borough Councillors who are also parish councillors attend. Parish Councillors have also been specifically invited to some planning training provided for borough councillors. In addition, parish councillors have attended training sessions they have seen advertised in the Members Bulletin.

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: 7th October 2013

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.

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 Board Director Resources (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

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: 7th October 2013

8. Appendices

- 8.1 Appendix 1 – Draft Independent Persons’ Protocol (To Follow)
- 8.2 Appendix 2 - Desktop Ethical Audit
- 8.3 Appendix 3 - Copies of the Department for Communities and Local Government’s revised plain English Guide for Councillors on openness and transparency on personal interests and its revised illustrative text for code of conduct for members and co-opted members of local authorities
- 8.4 Appendix 4 – Member Training Events

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Ethical Audit Desktop Analysis
Matrix of Key Information held by Swindon Borough Council
October 2013

| | Key Information | Held | Current position, including action taken since the last review in October 2012. | Area of Review or Action to be identified by the Standards Committee. |
|---|---|-------------|---|--|
| 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 adopted in May 2013.</p> <p>The Constitution's 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 Council's Audit Committee was first established in May 2006 and continues to operate effectively. It receives assurances from the Standards Committee in relation to matters of internal control such as the operation of the Whistleblowing Policy.</p> <p>The Annual Audit letter for 2008/09 confirmed that the 'Governance arrangements' of the Council were sound with 'examples of notable practice identified'.</p> <p>The Council is increasingly working with external partners and stakeholders. Many of the Council's partnership relationships are now managed through the One Swindon Board, with appropriate governance arrangements in place.</p> | |
| 2 | Procedural Standing Orders | Yes | Updated in Constitution – May 2013 | |
| 3 | Contracts Standing Orders | Yes | Updated in Constitution – May 2013 | |
| 4 | Employees' Code Of Conduct | Yes | Following consultation with Council employees and | |

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| | | | <p>unions, the Employee Code of Conduct was approved by the Standards Committee in July 2006. The Code of Conduct was been issued to all Council employees, who were required to sign to confirm that they have read and will act in accordance with the Code.</p> <p>A statutory Code was consulted on in October 2008 by the Department of Communities and Local Government, but no further action has been taken on this matter.</p> | |
| 5 | Members' Code Of Conduct plus Local Guidance | Yes | <p>The new Members Code of Conduct and procedures for determining complaints was adopted in June 2012, taking effect on 1 July 2012, under the Localism Act 2011.</p> <p>The Monitoring Officer has provided guidance and training on the Members Code of Conduct to Officers and Members, together with Parish Clerks and Parish Councillors. Refresher training is also regularly provided.</p> | . |
| 6 | Confidential Reporting Procedure | Yes | <p>The Whistleblowing Policy was first approved in November 2001 and is kept under regular review.</p> <p>Complaints received are investigated and the outcome reported to the Standards Committee. Employees are reminded about the procedure via staff communications, including in the Team Brief.</p> <p>The Committee first approved in September 2005 the Council's subscription to the Public Concern at Work Helpline to provide a formal method of confidential reporting for staff who do not feel able to raise issues directly with the Council. The Council has maintained this provision, but also makes available support via a contract with Care First, the Council's employee assistance programme.</p> | |
| 7 | Terms Of Reference of the | Yes | The new Standards Committee was put in place in July | |

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| | Standards Committee | | 2012, under the terms of the Localism Act 2011, giving Councils the option of whether to retain a Standards Committee or nominate another Committee to oversee the determination of Code of Conduct complaints. The Borough Council's new Committee has retained much of its extended terms of reference, beyond the determination of complaints, in particular in relation to its monitoring of Anti-Fraud and Corruption Strategy and Whistleblowing Complaints. | |
| 8 | Scheme Of Delegation | Yes | This was updated by 1 April 2013 to take account of the revised management structures under Stronger Together which came into effect on that date. It has subsequently been approved again as part of the 2013/14 Constitution at the meeting of Annual Council meeting in May 2013. | |
| 9 | Members' Register Of Interests | Yes | Held on file and on the Council's website. Regular reminders are issued. In accordance with the requirements of the Localism Act the Council also now publishes Register of Interest forms for all Parish Councillors in the Borough Area. | |
| 10 | Recorded Declaration Of Interests | Yes | Interests are recorded at meetings and are recorded on the website. | |

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| 11 | Members' Induction Process | Yes | <p>All new Councillors are provided with a comprehensive induction programme.</p> <p>New Councillors elected in by elections have attended Induction training following their election.</p> | |
| 12 | Officers' Induction Process | Yes | <p>Corporate induction process is in place and departmental induction processes are also in place.</p> <p>Reference is included in the Officers' Induction Process to the ethical framework. During staff induction it is checked that staff have received a copy of the code of conduct (which they usually have with their contracts) and they are reminded that it is their responsibility to read it and speak with their manager if they have any concerns. Staff are also advised of the disclosure of gifts etc information, and are also advised to contact their managers with any concerns regarding this, or any special arrangements made (for example, working in a care home at Christmas where people may buy them lots of gifts/goodies).</p> <p>It is the responsibility of managers to enforce the code of conduct and ethics and probity issues with staff.</p> <p>The Monitoring Officer liaises with the Head of People and Change on evaluating the implementation across departments of training on the ethical framework within the Officers' Induction Programme and on the monitoring of the officer induction process.</p> | |
| 13 / 14 | Members' Continuing Development and Training | Yes | <p>A range of development / training opportunities are offered and a record of attendance kept.</p> <p>Training for Councillors is facilitated by the Members Services Officer, in consultation with a cross-party Member Development Steering Group. This agrees the programme for training at the beginning of each year,</p> | |

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| | | | and monitors the success of each course and the uptake from Councillors. | |
| 15 | Officers' Continuing Development | Yes | The Council's behaviour framework sets out the values and behaviours expected from officers and members. This currently forms part of the annual appraisal in place across the Council, and identifies development needs and provides structured options to accessing appropriate training. | |
| 16 | Officers' Training | Yes | A Learning & Development online resource has been launched, which provides practical learning and development materials. There is also a Learning Zone with links to coaching and networking e-learning modules developed by Good Practice. Other courses are available direct. | |
| 17 | Other Council Specific Additional Codes And Protocols | | <p><u>Monitoring Officer Protocol</u> - Adopted in December 2003 and last updated in May 2012 to reflect the changes in the management structure under Stronger Together.</p> <p><u>Guidance to Councillors on Dealing with the Media</u> – first adopted February 2002, and last reviewed and updated by the Committee in October 2010, following detailed consultation with members, to include in particular new provisions in relation to blogging and use of social media.</p> <p><u>Protocol on Member / Officer Relations</u> - Introduced September 2002 and regularly reviewed and updated. This was last updated in February 2010 to refer to the Council's Intouch programme. The Association of Secretaries and Solicitors (ACSeS) produced a model code, some of which is based on this Council's protocol.</p> | |

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| | | | <p><u>Members' Planning Code of Good Practice</u> - adopted February 2004, and regularly reviewed and updated. This was last amended in January 2012 to reflect the new rules in relation to Pre-Determination of Decisions under the Localism Act 2011.</p> <p><u>Anti-Fraud and Corruption Strategy</u> – adopted November 2001 and regularly reviewed and updated. This was last updated in October 2011, together with the Whistleblowing Policy, to take account of the Bribery Act 2010. A Fraud Response plan was developed by Internal Audit at the same time to assist managers in knowing how to deal with allegations of wrongdoing. The outcome of investigations are reported to the Standards Committee.</p> <p>A Swindon Internal Audit Services Bulletin is issued to Members and Officers approximately twice a year to promote fraud awareness by communicating information on frauds elsewhere to officers and Members, and enable similar frauds to be prevented.</p> | |
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Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests of your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district of borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either –
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, including your membership of any Trade Union, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register or which you consider should be included if you are to fulfil your duty to act in conformity with the Seven Principles of Public Life. These non-pecuniary interests will necessarily include your membership of any Trade Union.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

| Learning and Development Events for Councillors – 2013 /2014 | | |
|--|---|--|
| Subject and Date | Attendance | Faciliator |
| 11 June 2013 Public Speaking and Public Engagement The session arranged at the request of Cllr Bob Wright and with the agreement of the Steering Group, included a demonstration of good and bad public speaking and how to write/prepare speeches for addressing the public and captivating and keeping an audience. Cost - £1,200 | Bob Wright Julie Wright Abdul Amin Apologies Cindy Matthews Teresa Page | Gail Downey and colleague Whirlwind Productions |
| 27th June 2013 Development Economics & Business Strategy | David Renard Alan Bishop Brian Mattock Nick Martin Vera Tomlinson Mary Friend Peter Watts Abdul Amin Brian Ford Wayne Crabbe Anne Richards Julian Price Junab Ali Colin Lovell | Planning Advisory Service |
| 22 July 2013 Swindon's Energy future – the big opportunities | Steve Allsopp Andrew Bennett Richard Hurley Teresa Page Alan Bishop Dale Heenan Plus representatives of Parish Councils Apologies Colin Lovell Peter Watts Brian Ford | Steve Cains Planning |

| 3 September 2013 – Open Evening for all Members 4.30 pm and 6.00 pm. | | |
|--|--|---|
| On Line Learning <ul style="list-style-type: none"> Accessing the Council's system remotely – to get help and o get help with any IT related issue. Learning Zone – To find out how to access and what is available on the Learning Zone Safeguarding Children - A demonstration of the on line learning package – essential training for councillors. | Abdul Amin Fay Howard David Renard Cindy Matthews Oliver Donachie Nadine Watts Annn Richards | John Baker Learning Advisor & E-Learning Author Ian Durnin-Duffy Planning and Development Manager – Safeguarding |
| Chairing/Meeting Skills and the Code of Conduct The session will be in the Function Room between 6 pm and 7 pm. | Abdul Amin Alan Bishop Oliver Donachie Claire Ellis Fay Howard Cindy Matthews David Renard Julie Wright | Stephen Taylor Director of Law and Democratic Services/Monitoring Officer |
| 2 October 2013 Safeguarding Adults | Indication of attendance: Alan Bishop Maureen Penny Rod Bluh Cindy Matthews Teresa Page (Deputy Mayor) Peter Watts Brian Ford Brian Mattock Apologies Michael Dickinson. | Doug Bale Head of Service Adult Social Care |
| 29th October 2013 Policy update / NPPF | | Phil Smith |
| 6th February 2014 'Sustainable Drainage and Flood Risk Management' | | Tim Price Simon Masters Russell Weymouth |

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| | | |
| 20th March 2014 The 'emerging design tool kit' Or possibly 'Inclusive Design for All' | | Peter Garitsis / Liz Smith-Gibbons Cindy Carter |

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Agenda Item 7

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

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