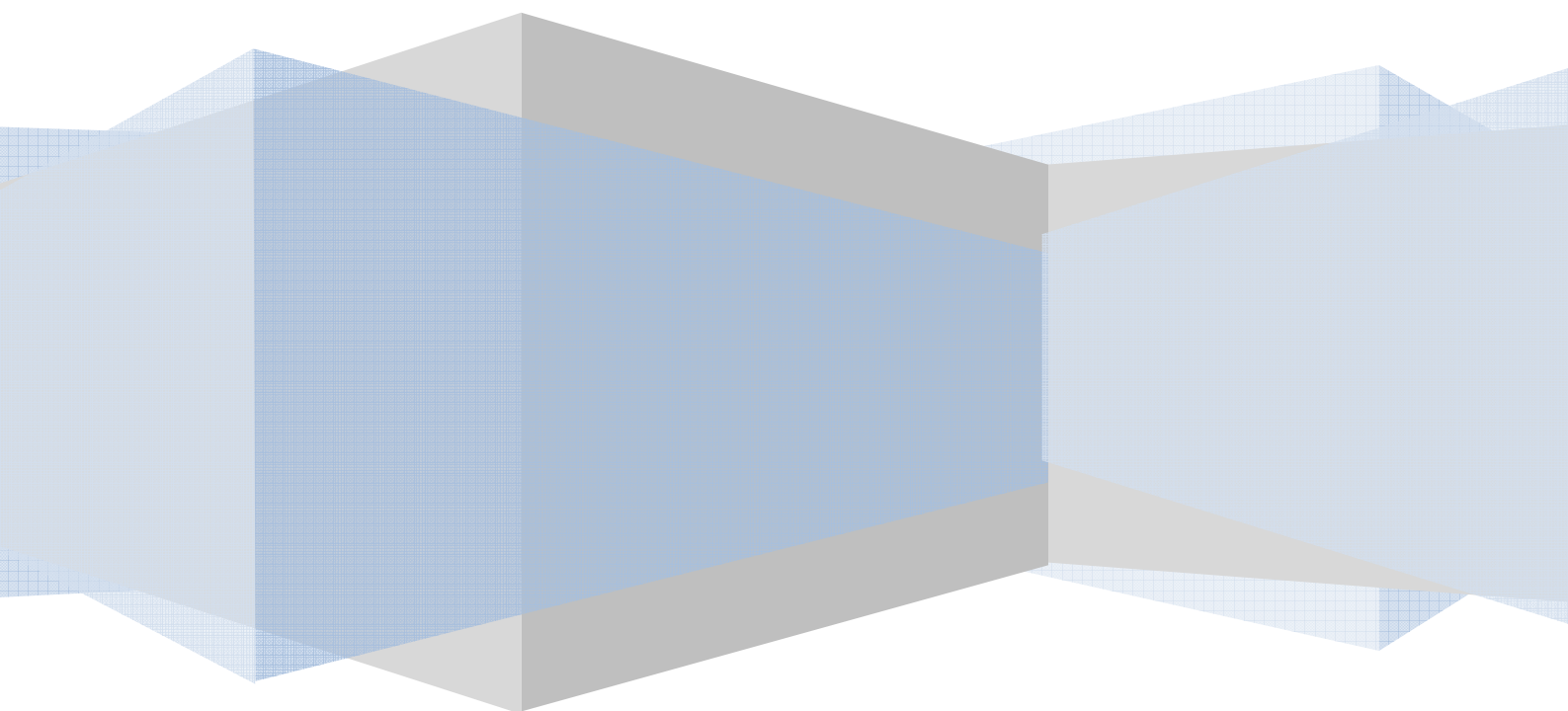


Swindon Borough Council

Standards Committee

Annual Report

June 2011 – June 2012



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 has 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 will continue to promote high standards of conduct by Members of the Borough Council and Parish Councils in Swindon, and assist them to observe their Code of Conduct. The Committee will also seek 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 June 2011 to June 2012.

Standards Committee Remit

The remit of the statutory 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 Assessment and Review Sub-Committees and a Hearings 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.

Membership of the Committee for 2011/12:

Independent Members	Councillors	Parish Representatives
Mr Keith Carby (Chair) Mr Trevor Davies (Vice-Chair) Mr Paul Morris Mr David Dawson <i>(Appointed for 4 years following public advert on a rolling basis)</i>	<u>May 2011 – 2012:</u> Cllr David Wood Cllr Fay Howard Cllr Peter Stoddart Cllr Rochelle Russell Cllr Kevin Small <u>June 2012:</u> Cllr David Wood Cllr Fay Howard Cllr Rex Barnett Cllr Richard Hurley Cllr Mary Friend Cllr Doreen Dart (deputy) <i>(Appointed at Annual Council)</i>	Mr Mike Compton Mr Richard Hailstone Mr Gerry Eyles <i>(Appointed following nomination by the Swindon Area Committee of Parish Councils)</i>

Annual Report and Work Programme

The Committee agreed the Annual Report of its work for 2010/11 and a Work Programme for 2011/12 at its meeting in October 2012. The full Standards Committee met on five occasions between June 2011 and June 2012, and completed all the items scheduled on its work programme.

Summary of Members Code of Conduct Complaints:

Set out below is a summary of the complaints received and dealt with by the Committee in 2011/12 compared to previous three 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	3	1
2011/12	11	7	0	2	2	0	1	1

Type of Complaints:

Of the 11 complaints received during 2011/12, 9 related to Borough Councillors and 2 to Parish Councillors. The complaints concerned alleged a wide range of potential breaches of the Code, including inappropriate or misleading comments, advice or behaviour in person or in writing, allegedly failing to disclose an interest, and inappropriate meeting conduct. 3 complaints were received from Parish Councillors, 1 from an Officer and 7 from Members of the Public. None this year were received from Borough Councillors.

Processing of Complaints:

The Assessment Sub-Committee met on 6 occasions during the year to carry out the first stage assessment of the complaints received, to agree if they should be considered for further action, having regard to the Council's Assessment Criteria. Of the seven complaints on which no further action was agreed, four of the complainants sought a review of the decision, and the Review Sub-Committee met three times. On each occasion the Review Sub-Committee decided to uphold the original decision.

The Hearings and Considerations Sub-Committee met once during the year to review an investigator's report in respect of an alleged breach of the Members Code of Conduct. The Sub-Committee agreed with the Investigator's recommendation that there had not been a

breach of the Code of Conduct or Protocol, and therefore a hearing was not necessary.

Investigations:

In each of the complaints 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 were referred to an Investigator. The approximate cost of fees paid for investigations between June 2011 and June 2012 was £9,104.00. The Monitoring Officer reviewed all completed investigations to ensure the quality of the investigation, final report and presentation to the 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.

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. Three complaints were received under the Protocol of Member / Officer relations during 2011/ 2012. One of the complaints was considered by a Standards Panel and although no failure to follow the Protocol was identified, the Monitoring Officer was asked to follow up with the respondent to ensure they did not make themselves open to complaint in future.

Two other complaints were referred for to an external investigator, and the reports when finalised these were considered by a meeting of the Consideration and Hearings Committee. On one complaint the investigator recommended that there had not been failure to follow the Protocol, and this view was confirmed by the Sub-Committee who agreed that no further action was required. On the second complaint the investigator recommended that there has been a failure to follow the Protocol and this has been referred to a Hearing, which is due to take place shortly.

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.

Anti-Fraud and Corruption Strategy and Whistleblowing Policy.

The Committee regularly participates in the review of the Anti-Fraud and Corruption Strategy and the Whistleblowing Policy, and Fraud Response Plan. The Head of Internal Audit confirmed to the Committee in October 2011, that the Anti-Fraud and Corruption Strategy and

Whistleblowing Policy was up to date with current policy and best practice, following amendments to meet the requirements of the Bribery Act 2010. In addition, the Committee noted that Internal Audit had developed a Fraud Response Plan to assist managers in knowing how to deal with allegations or suspicions of wrongdoing.

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. The Committee received a summary of all whistleblowing cases to date at its meeting in March 2012. During 2011/12 there 5 whistleblowing cases were received, with 2 further received between March and June 2012. Of the 7 complaints, 3 were anonymous, two were from members of the public, and two were from employees.

Where the results of cases have been finalised, 1 has resulted in disciplinary action, on 2 there was either insufficient evidence to proceed / no case to answer/ the allegation was unfounded, and 1 is being dealt with under another policy. In one of the cases where there was insufficient evidence, further reviews are taking place on the area of work due to the number of unrelated complaints made over a period of time.

The fact that a number of cases were referred to Internal Audit for investigation shows that staff had confidence in the investigation process.

The Localism Act 2011 and the Standards Regime

Much of 2011/12 was occupied for the Committee with the statutory changes in the Standards Regime and understanding the implications of the anticipated Localism Bill prior to November 2011 and planning in advance, and then implementing the changes required once it was enacted on 15th November 2011.

October 2011:

At its meeting in October, the Committee considered a model Code of Conduct for Members drafted by the Association of Council Secretaries and Solicitors (ACSeS), as a replacement to the statutory Code of Conduct.

January 2012:

The Committee received a detailed report on the Localism Act 2012 in January 2012, on the changes to the system of regulation of standards of conduct for members and co-opted members. The report set out a number of proposals for the Code of Conduct and the way in which the Complaints would be processed, which were to be discussed with Political Groups and the Corporate Governance Review Working Group. The Committee offered their own recommendations on the following areas to form part of these discussions:

- The Committee supported having a politically balanced stand-alone Standards Committee to oversee the ethical framework, with one or more Parish Representatives co-opted to it, to maintain a transparent process for the public.
- The Committee recommended to Council that the Monitoring Officer begin the process for appointment of one or more Independent Persons directly, and consult the Group Leaders on the process for appointment and remuneration.
- The preference for any future voluntary Code to be based on the current one, but updated to:
 - Include the new definition of Disclosable Pecuniary Interests when defined by the Regulations.
 - Exclude the need to declare interests where such a declaration is unnecessary, such as where the interest solely relates to being a Council-appointed representative, and is not prejudicial.
 - To reflect and re-enforce the conduct of Councillors required in relation to the use of social media, which was included in the last update to the Media Guidelines for Councillors.
- It was recommended that Council introduces in its Standing Orders a requirement for Councillors who have a Disclosable Pecuniary Interest to not only abstain from voting, but also to leave the meeting during the discussion of such a matter.
- The Monitoring Officer was asked develop a streamlined version of the procedure for dealing with Member Officer Protocol Complaints which can then be used as the basis for processing Code of Conduct complaints, taking account the requirements of the Localism Act 2011 set out in the report, and subject to any additional requirements arising from the Regulations when issued.

The Committee asked that the Monitoring Officer consult with the Corporate Governance Review Working Group, Political Groups and where appropriate Parish Clerks, on the following matters, taking account of the Committee's views set out above, and report back:

- a) How the ethical framework set out in the Localism Act 2011 is to be managed in Swindon and whether a Standards Committee (which must be politically balanced) should be appointed to succeed the current Standards Committee,
- b) The Code of Conduct to be adopted by the Council, together with the process for considering complaints under that Code and the sanctions available,
- c) Arrangements for the advertisement for, and appointment of, one or more Independent Persons,
- d) The implementation of the requirements of the Act regarding the future registration and declaration of members' interests, including whether to require members to withdraw from the meeting where such an interest exists, and
- e) Arrangements for the granting of dispensations to Councillors.

It was recognised that the changes in relation to pre-determination had come into effect on 15th January 2012, and the Monitoring Officer had issued guidance to all Councillors. The Committee endorsed the proposal to amend the Members Planning Code of Good Practice with immediate effect to reflect these changes, but also to send the Code to the Planning Committee to consider any further amendments it might wish to recommend. It authorised the

Monitoring Officer to make any subsequent changes to the Code to take account of these recommendations, and any amendments required to reflect to the Stronger Together structure.

March 2012:

At its meeting in March 2012, the Committee received an update from the Monitoring Officer on the recommendations of the Corporate Governance Working Group, which supported the Committee's own recommendations, including the proposal for stand-alone Committee, with continued co-opted member representation, and a voluntary Code based as far as possible on the existing one. The Committee also agreed an extension to the terms of reference of the independent members, until the Committee had completed its work.

June 2012:

The Committee met for its last statutory meeting in June 2012, to adopt the arrangements for the Standards Framework to be operated by the Council from 1 July 2012.

The Committee considered a report from the Monitoring Officer recommending the adoption of a new Members Code of Conduct and procedure for investigating and hearing complaints to come into operation when the statutory Standards Framework ceases to have effect under the Regulations to the Localism Act.

The Director of Law and Democratic Services advised on the Pecuniary Interest Regulations and the Local Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 which had been issued by the Government on 8th June 2012.

The Committee noted the options before the Council in relation to the Code of Conduct and Standards Framework. It was recommended to Council that the Code as appended to the report was in line with discussions with the Standards Committee, Parish Councils and the Corporate Government Working Party to keep the Code as close to the current one as possible. The Committee recommended one change, which was to the increase in the value of gifts or hospitality to be declared by Members from £25 to £50. The Director of Law and Democratic Services advised that he would provide additional information in the report to Council as to the nature of declarable pecuniary interests under the Regulations, and for which failure to declare made Members liable to prosecution, and the nature of the sanctions available to the courts. The Director of Law and Democratic Services would be offering training to Councillors.

It was noted that Town and Parish Councils were also required to adopt a Code of Conduct by 1 July 2012, and it was not yet known whether those in Swindon would adopt the same Code as the Council or adopt that recommended by the National Association of Local Councils. It was agreed that the Director of Law and Democratic Services would also offer training to Town and Parish Councils on the Code and new framework.

The Committee recommended to Council all the governance arrangements suggested as to the consideration of complaints under the Code of Conduct, for the appointment of two independent persons, and for the composition and work of the Standards Committee.

It was also recommended that the Monitoring Officer would be authorised to make any further technical amendments to the Code and to the other Council Codes and Protocols which may be necessary as a result of any statutory requirements introduced following the adoption of the revised Code.

The current statutory Standards Committee would be dissolved on 30th June 2012, and a new Standards Committee would be appointed with effect from 1st July 2012.

It was agreed that Article 9 and 10 of the Council's Constitution be amended The Director of Law and Democratic Services Officer be authorised to amend the Council's Constitution to take into account any further amendments required as a result of the Localism Act 2011 and its associated Regulations

Arrangements for the appointment of two Independent Persons were put in place.

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 2011.

Leader and Chief Executive Question and Answer Session

The Leader of the Council, and the Chief Executive, attended the meeting in March 2012 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:

- An update on Stronger Together, the new Council management structure and way of working from 1 April 2012, and the context and reasons for these changes.
- The role for Town and Parish Councils under the Localism Act, and the need for close working with the Council, in particular in Localities.
- The context in which the Council was operating with regard to the economic climate, budget pressures and a heightened political environment, and the importance of the public understanding the different roles of officers and Councillors, and the democratic mandate held by Councillors.
- 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.

The Committee noted that the Leader of the Council and the Chief Executive both considered that the Protocol of Member / Officer Relations was fit for purpose. In addition, the discussion

on social media endorsed an earlier recommendation by the Committee that the new Members Code of Conduct, to be drafted when the Regulations under the Localism Act were published, should include specific reference to use of social media.

Annual Governance Statement

The Committee at its meeting in March 2012 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.

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 2011, January 2012 and March 2012 meetings. The Monitoring Officer has provided induction training to all new Members of the Council following Borough Elections. 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 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 2011/12 Municipal Year that related to the ethical standards of the authority.

Declarations of Interest

No applications were received from Borough or Parish Councillors during this year for dispensations in respect of declarations of interest. As part of the adoption of the new Localism Act arrangements, it was recommended to Council and agreed that the Standards

Committee be authorised to grant dispensations under section 33 of the Localism Act 2011.

Standing Orders were amended at Annual Council on 18th May 2012 to require those declaring personal and prejudicial, or disclosable pecuniary interests, to declare that interest and leave the room during the discussion of the relevant item unless a dispensation to stay has been obtained.

Following a resolution of the Committee in September 2004, the public register of Councillors' interests has continued to be made available on the Council's website. The Committee strongly supported in the interests of demonstrating openness and transparency of conduct that all registers were made available in this way. Arrangements were put in place as part of the implementation of the Localism Act in June 2012 for both Councillor and Parish Councillor Registers to be made available on the website, once the Council and Parish Council adopted new Codes of Conduct.

Summary

The Standards Committee had a busy 2011/12, with the abolition of the statutory standards framework, and in conjunction with the Corporate Governance Working Group making recommendations to Council on new arrangements, to continue to receive and process Code of Conduct Complainants. The statutory Committee 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.

At the last meeting of the statutory Committee, Members paid tribute to the work of the Independent Members and Parish Councillors, in particular Mr Keith Carby (Chair) and Mr Trevor Davies (Vice-Chair) who had served on the Committee since it was first set up in 2000.