

Ethical Framework Update

Standards Committee

Date: 29th January 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 Request that the Director of Law and Democratic Services review the procedures for dealing with Complaints under the Protocol of Member / Officer Relations to align these with the procedure for dealing with Member Code of Conduct complaints.
- 2.3 Include a review of the Member Code of Conduct and how it is working in the 2013/14 Standards Committee Work Programme.
- 2.4 Consider if the Public Concern at Work Act Whistleblowing subscription should be renewed.

3. Detail

Parish Councils

- 3.1 A summary of the Parish Council training on the standard regime is attached at Appendix '1'. Since the last meeting the Monitoring Officer has provided training for those Parish Councils who have chosen to adopt the same Code of Conduct as Swindon Borough Council. A list of Codes adopted by Parish Councils is attached at Appendix '2', and any update will be reported at the meeting.
- 3.2 Under the Localism Act 2011, the Declarations of Interest of each Parish Councillor must be placed on the Council's website, when received by the Monitoring Officer. This process is working reasonably well, but is ongoing as membership of Parish Councils is regularly changing. A copy of the declarations of Interest forms received is attached at Appendix '3'.

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The Member Code of Conduct

- 3.3 In the annual work programme approved at the beginning of the year, it was suggested that at this meeting the Monitoring Officer reviewed the working of the Code of Conduct which was approved in July 2012.
- 3.4 Only one complaint has been received and considered under the new Code to date, and this did not proceed to any further action. It is difficult to assess the performance of the Code of Conduct on this basis, and so it is suggested that any review be considered as part of the 2013/14 work programme. Similarly, it has not been possible to assess the working of the new procedures as to how a Code of Conduct complaint should be dealt with. Accordingly, it is suggested that this be also considered as part of the 2013/14 work programme.

Dispensations

- 3.5 Dispensations for 4 years under Section 33 of the Localism Act 2011 have been granted to allow Members to speak and vote who consider that they may have a disclosable pecuniary interest (DPI) in respect of the setting of the Council Tax, considering discounts and exemptions for Council Tax, and the Council Tax Support Scheme.
- 3.6 The issue as to whether or not a DPI is needed in such circumstances is a matter of some controversy at present, as the Government has indicated that a dispensation may not be needed on the basis that Council Tax does not affect any beneficial interest in land. The contrary view (also expressed by the National Association of Parish Councils) is that Council Tax is paid as a consequence of an interest in land, and so would be a disclosable pecuniary interest, which is a view taken by the Government of the day in relation to the previous Member Code of Conduct. As a matter of law, the Localism Act 2011 is not clear on this point, and as already explained to Members, it is a matter for Members as to whether or not they wish to seek a dispensation to avoid the possibility of the Courts having a contrary view to that currently expressed by the relevant Government Minister.
- 3.7 At the last meeting it was agreed that the Director of Law and Democratic Services be authorised to grant applications for Dispensations (under Section 33 of the Localism Act 2011), in consultation with the Chair of the Standards Committee, on any subject matter, when the application is urgent and cannot wait to the next scheduled meeting of the Standards Committee. Any such dispensations were to be reported to the next scheduled meeting of the Committee. There are no applications to report at this meeting.

Protocol of Member / Officer Relations

- 3.8 The procedures for dealing with such complaints and investigating them were updated March 2012 and October 2011 respectively. Subsequently, with the

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approval of a new Member Code of Conduct, the procedure for dealing with Complaints under the Member Code of Conduct was revised in July 2012. It is suggested that the procedures for dealing with any complaint under the Protocol be reviewed by the Director of Law and Democratic Services so that these procedures are aligned.

Public Concern at Work Act

- 3.9 The Council is due to renew its subscription to the Public Concern at Work Act Whistleblowing Advice. The basic package costs £500 for up to 1,000 employees and 10 pence each per additional employee, per annum. The package includes:
- Whistleblowing Advice Line Subscription
 - Compliance toolkit.
 - Promotional Materials
 - Annual access to one hour's consultancy advice or a place at one of the training workshops.
- 3.10 The company have advised that since September 2012, Swindon falls within the lowest incident group, of 0-3 self-identified calls. However, they have confirmed that their advice line in general continues to receive the most calls from the local government sector along with care and health.
- 3.11 The Committee is asked if it wishes the Council to renew the Public Concern at Work Act subscription on this basis.

Independent Person Protocol

- 3.12 As the Committee will be aware from the last meeting, the Independent Persons attended a workshop in September 2012, which discussed the role of the Independent Persons. Subsequently, an Independent Persons Protocol has been prepared and circulated by those running the workshop. This is currently being considered and will be reported on at the next meeting.

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.

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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 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 - Update on Parish Training
- 8.2 Appendix 2 – List of Parish Councils adoption of a new Members Code of Conduct.
- 8.3 Appendix 3 – Registers of Interests from Parish Councils