



Sandwell
Metropolitan Borough Council

Annual Report of the Ethical Standards and Member Development Committee 2018-19

Foreword – Chair of the Ethical Standards and Member Development Committee

I am pleased to present the Annual Report of the Ethical Standards and Member Development Committee.

This year the Committee has reviewed the approach to member development and the revised Member Development Programme has been designed to assist members to lead their own development and ensure that they develop/acquire the requisite knowledge, experience and skills to succeed in their various councillor roles.

I would take this opportunity to emphasise to all members the importance of attending the standards training that is offered every year. These sessions are essential to your understanding of the Code of Conduct and are also a useful discussion forum for members about ethical issues. This training is mandatory for all members every two years. In particular, members must pay attention to their disclosable pecuniary interests.

I would like to thank members of the Ethical Standards and Member Development Committee and the Independent Person for their attendance and contributions during the past year. The Monitoring Officer and his officers have also provided good support throughout the year.



Councillor Geoff Lewis
Chair of the Ethical Standards and Member Development Committee

1 The Standards Committee

- 1.1 The Localism Act 2011 removed the requirement for a national code of conduct and statutory standards committees, and set out a light touch framework for a new ethical regime. The Act places a general obligation on the Council to promote and maintain high standards of member conduct.
- 1.2 Whilst there is no requirement to have a standards committee, standards issues and casework need to be dealt with due to the statutory obligation for a council to promote high ethical standards. The Council decided to retain a Standards Committee in 2018/19 and broadened its remit to include member development.
- 1.3 The main functions of the Ethical Standards and Member Development Committee are to:-
 - (a) promote and maintain high standards of conduct and ethical governance by members and co-opted members of the Council;
 - (b) assist members and co-opted members of the Council to observe the Council's Code of Conduct;
 - (c) advise the Council on the adoption or revision of a Code of Conduct for members and co-opted members;
 - (d) monitor the operation of the Council's Code of Conduct for members and co-opted members;
 - (e) advise, train or arrange for training for members and co-opted members of the Council on matters relating to the Council's Code of Conduct;
 - (f) develop and offer to all members an annual programme of development activities which provides members with development opportunities that support the Council's corporate priorities, identifying sufficient resources to deliver an effective Member Development Programme.

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- 1.4 The Committee also has two sub-committees which form part of the arrangements for dealing with complaints about breaches of the Member Code of Conduct. These sub-committees may consider investigation reports referred to them by the Monitoring Officer and conduct hearings (including the imposition of sanctions).

These sub-committees operate according to the principles of natural justice and human rights legislation and ensure that both the complainant and the subject member receive a fair hearing.

2. Members

- 2.1 The membership of the Standards Committee in 2018/19 was as follows:-

Chair

Councillor Lewis

Vice Chair

Councillor E M Giles

Elected Members

Councillor Hartwell
Councillor P Hughes
Councillor Sandars
Councillor Shackleton
Councillor Trow
Councillor Underhill

- 2.2 The inclusion of experience from all areas of the decision making process gives the Committee a broad base of experience from which to make rounded decisions on ethical matters.
- 2.3 The Council's Constitution also includes role descriptions for the Chair of the Standards Committee and for its members, which are attached to this report as Appendix 1. The role descriptions emphasise the impartial and non-political nature of the conduct of the Ethical Standards and Member Development Committee.

Independent Person(s)

- 2.4 Section 28(7) of the Localism Act 2011 requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation. The Independent Person also advises a Member facing an allegation who has sought the views of that person. There are restrictions on who can be appointed as the Independent Person, in general the Independent Person cannot be a councillor, officer or their relative or close friend.
- 2.5 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated.
- 2.6 The Council currently has one Independent Person; Mr J Tew, whose term of office expires on 31 January, 2022.

To improve the prospects of securing successfully the appointment of two further Independent Persons, the Director of Law and Governance and Monitoring Officer has liaised with the Monitoring Officer at Walsall MBC with a view to undertaking a joint recruitment exercise. The benefits of a joint recruitment exercise included:

- a broader remit attracting a broader pool of potential candidates;
 - greater opportunities for the sharing of knowledge and support amongst the Independent Persons;
 - increased opportunities to gain greater experience; and
 - a joint recruitment exercise would mean the costs of the recruitment could be shared between both councils.
- 2.7 The remit of independent persons has been extended by The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 in relation to changes to statutory dismissal procedures for heads of paid service, monitoring officers and chief finance officers. In the case of a proposed disciplinary action against one of the statutory officers, the council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011 to form an independent panel.
- 2.8 Independent Persons are invited to attend all meetings of the Ethical Standards and Member Development Committee as observers.

Officer Support to the Committee

- 2.9 The Monitoring Officer is one of the Council's statutory officers, appointed under Section 5(1) of the Local Government and Housing Act, 1989. The Monitoring Officer is responsible for ensuring that the Council and its members act lawfully; do not cause maladministration; and comply with the Code of Conduct for Members. He is the primary source of advice for members on the requirements of the Code of Conduct and also has specific statutory duties such as securing the investigation of complaints of member misconduct.

The Monitoring Officer is also the principal adviser to the Ethical Standards and Member Development Committee and its sub-committees and is assisted by the Deputy Monitoring Officer. More information about the role of the Monitoring Officer can be found in Article 12 of the Council's Constitution.

3. Business

- 3.1 During 2018/19, the Ethical Standards and Member Development Committee met on three occasions and considered the following matters:
- Allegations Updates;
 - Appointment of Ethical Standards Sub-Committees for 2018/19;
 - Appointment of Independent Persons;
 - Annual review of Members' Gift and Hospitality;
 - Committee on Standards in Public Life Annual Report 2017/18;
 - Committee on Standards in Public Life – Outcome of Consultation – Local Government Ethical Standards;
 - Annual Review – Members' Register of Interests;
 - Member Development Programme;
 - Personal Safety of Elected Members;
 - National Cases.

4. Commentary on the Work of the Committee

Member Development Programme

- 4.1 The revised Member Development Programme has been designed to assist members to lead their own development and will ensure that they develop/acquire the requisite knowledge, experience and skills to succeed in their various councillor roles.

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- 4.2 The Council seeks to build upon its successes as a member-led Council and recognises that to do so all elected members have an important role to play. It is recognised that elected members could be appointed to various roles during their period of office (whether one or over several terms). The Member Development Programme is purposely designed to facilitate discussions and debate with all elected members and will specifically consider the roles of Chair, Vice Chair, committee member and representatives on an outside body.
- 4.3 Elected members have undertaken annual personal development plans and many undertake a wide range of training and other forms of development courses. However, there is a need to ensure the needs of members are better understood so the development programme is clearly aligned to those needs and delivered in a manner that members find engaging, thought-provoking and informative.
- 4.4 A joined-up Member Development Programme has therefore been developed to engage all members so that their needs can be properly examined and met. The programme will challenge and inform members so they are equipped to meet the requirements of the 2030 Vision. The programme will be supported by facilitators, member peers (as far as possible) and use of member networks locally, regionally and nationally. Importantly, it encourages elected members to share their expertise, local knowledge and experience to inform the whole development programme.
- 4.5 A Member Development Programme brochure has been produced which sets out the areas of development, learning and support that Elected Members have requested and details all essential learning, requested learning, member wellbeing and resilience and support arrangements requested by Members.
- 4.6 Throughout this and next municipal year various development, learning and training sessions will organised for Members that are based on the areas of focus detailed in the brochure. A quarterly bulletin be issued to Elected Members providing details of up and coming events as they are organised and available.

Committee on Standards in Public Life

- 4.7 The Ethical Standards and Member Development Committee has a duty to promote high ethical standards amongst members. As well as complying with legislation and guidance, the Committee needs to demonstrate learning from issues arising from local investigations and case law. The Ethical Standards and Member Development Committee is kept informed of any issues arising out of the Annual Report from the Committee on Standards in Public Life as they may also add to learning at the local level.
- 4.7 The Committee on Standards in Public Life launched a stakeholder consultation on the Local Authority Ethical Framework and the Monitoring Officer and the Standards and Member Development Committee responded to the consultation on behalf of the Council. The report was published on 30 January 2019.

Review of Personal Safety of Elected Members

- 4.8 The Ethical Standards and Member Development Committee through its Working Group has commenced a review of Elected Member safety. The Committee recognised that a full review of member safety has not been undertaken for some time and given the changes in member roles, the demands placed upon them and recent tragic events and incidents involving those in public office, it is considered appropriate for a review to be undertaken to ensure the wellbeing and safety of members.
- 4.9 The Committee recognised that elected members in Sandwell pride themselves on wanting to ensure they remain accessible to their Ward residents but also acknowledges that some members have been subjected to unacceptable behaviour and abuse when undertaking their various councillor roles.
- 4.10 The review will look at best practice, but importantly ensure that all elected members are afforded the opportunity to contribute to the review and its outcomes.
- 4.11 The review will help to ensure an informed approach is taken to identify all reasonable and proportionate measures necessary to ensure elected members are able to undertake their duties and roles with confidence and safely.
- 4.12 A full report will be considered by the Committee on this matter once the review is complete.

5. The Ethical Framework

Members' Code of Conduct

- 5.1 The Council's current Code of Conduct was adopted with effect from 18 October, 2016. It will assist Members and Co-opted Members to meet the provisions of the Localism Act 2011 and is available on the Council's website.
- 5.2 All candidates for election are issued with a copy of the Code of Conduct and on appointment and are required to sign an undertaking to comply with the Code. Members also receive induction training and subsequent refresher training on the provisions of the Code and how to carry out their duties in line with the Code. This training is delivered by the Monitoring Officer/Deputy Monitoring Officer. The Monitoring Officer also issues guidance to councillors appointed to outside bodies by the Council to assist them in understanding the impact of the Members' Code of Conduct.
- 5.3 Part 2 of the Members' Code of Conduct requires elected and co-opted members to give written notification to the Monitoring Officer of any disclosable pecuniary interests and other registerable interests to be included in the Council's statutory Register of Interests within 28 days of election or appointment, and to update their declarations as appropriate by notifying any amendments or new interests within 28 days of becoming aware of them.
- 5.4 This register of interest is available for public inspection, and individual members' declarations of interest can be inspected at any time on the Council's website by accessing the Committee Management Information System. The Register of Interests and Declarations of Interest are periodically reviewed by the Monitoring Officer and are made available for inspection by the Ethical Standards and Member Development Committee on a regular basis.
- 5.5 Members are also obliged to disclose any interests at meetings where those matters are to be discussed. These declarations are recorded in a register open for public inspection and are also noted on the Committee Management Information System.

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- 5.6 The Council has a protocol for members on gifts and hospitality giving additional guidance on the requirement of the Members' Code of Conduct for members to declare gifts and hospitality received with an estimated value of at least £100. These declarations are recorded in a register which is open for public inspection and are also recorded in their individual entries on the Committee Management Information System. The Register of Gifts and Hospitality is periodically reviewed by the Monitoring Officer and is made available for inspection to the Ethical Standards and Member Development Committee on a regular basis.

Arrangements for Dealing with Standards Allegations

- 5.7 The Localism Act 2011 requires authorities to adopt arrangements for dealing with complaints about breaches of the Member Code of Conduct. The Council on 3 July, 2012, approved arrangements for Sandwell Council which include provision for sub-committees of the Standards Committee to consider investigation reports referred to it by the Monitoring Officer and to conduct hearings (including imposition of sanctions).
- 5.8 The arrangements for dealing with standards allegations were revised by the Council on 17 January, 2017.
- 5.9 A Working Group has been established by the Committee to review the Council's Ethical Framework.
- 5.10 There were currently two standards allegations under investigation. All other matters had been dealt with.

Allegations of Misconduct by Members

- 5.11 Under the new ethical framework, all complaints of misconduct come direct to the Monitoring Officer. The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. Where the Monitoring Officer is unable to resolve the complaint informally and feels it merits formal investigation after consultation with the Independent Person(s), he will appoint an Investigating Officer who will prepare a report concluding whether or not there is evidence of a failure to comply with the Code of Conduct.

If the Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct, he will either send the matter for local hearing before a sub-committee or, after consulting the Independent Person, seek local resolution.

Training and Development

- 5.12 The Standards Committee is responsible for advising, training or arranging for training for members and co-opted members of the Council on matters relating to the Council's Code of Conduct. The Monitoring Officer, his deputy and a senior legal officer deliver relevant training to all members and co-opted members on behalf of the Committee.
- 5.13 The Committee considers summaries of cases of national interest to ensure that it is up to date with how complaints about member misconduct are being dealt with in other authorities around the country, so that members can bring this knowledge to any cases in Sandwell. These national cases have covered:-
- a councillor had received gifts or hospitality from property firms involved in half of the planning applications his committee ruled on;
 - inappropriate and disrespectful language used by a councillor;
 - a councillor's mileage claims;
 - a councillor deliberately attempting to circumvent rules on the disclosure and declaration of interests.
- 5.14 The Ethical Standards and Member Development Committee continues to develop its own skills and expertise, for instance, by looking at case summaries and appropriate refresher training.

6. The Committee's Main Achievements

- 6.1 The Committee ensured that all members have updated their interests in accordance with the revised Code of Conduct and register of interests and received a one to one session with the Monitoring Officer/legal officers.
- 6.2 The revised Member Development Programme has been designed to assist members to lead their own development and will ensure that they develop/acquire the requisite knowledge, experience and skills to succeed in their various councillor roles.
- 6.3 Various standards matters have and are being addressed.

7. Contribution to the Vision

- 7.1 Through its work in promoting high standards of conduct, the Committee makes a positive contribution to the quality of governance of the authority.

8. Conclusion

- 8.1 The Localism Act 2011 has significantly changed the role of the Standards Committee, which is no longer statutory. However, the Council's decision to continue with a Standards Committee has meant there is a clear focus for the responsibility to promote and maintain high standards of conduct to good practice standards. Its work has helped to shape the new ethical framework and assist the Council in meeting the statutory requirements under the Act.

Appendix 1

Role Description - Chairman of Ethical Standards and Member Development Committee

1. To lead the relevant standards function of the Council, ensuring the overall co-ordination and management of the process.
2. To chair meetings of the Ethical Standards and Member Development Committee.
3. To ensure the efficient carrying out of the standards process and keep under review the standards process.
4. To promote high standards of conduct by all elected members.
5. To assist elected members observe the Council's Code of Conduct.
6. To monitor and review the Code of Conduct and arrangement of appropriate training for all elected members to ensure its proper application.
7. To keep yourself and the Committee fully up to date with all relevant legislation and good practice relating to the Ethical Standards and Member Development Committee.
8. To comply with the Council's Code of Conduct or such other code of conduct as the Council may from time to time adopt.
9. To comply with the Member/Officer protocol as set out in the Constitution.
10. To ensure members of the committee abide by the Member/Officer protocol.
11. To ensure that the principles of equality and fairness are integral to all actions and policies of the Council.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

Role Description - Member of the Ethical Standards and Member Development Committee

1. To assist the Chairman of the Committee in the discharge of the key duties of that position as set out above.
2. To participate actively and effectively as a member of the Committee and its Sub-Committees.
3. To comply with the Council's Code of Conduct or such other code of conduct as the Council may from time to time adopt.
4. To comply with the Member/Officer protocol as set out in the Constitution.
5. To ensure that the principles of equality and fairness are integral to all actions and policies of the Council.
6. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.
7. Members need to be mindful that decisions made by the Committee and its Sub Committees should be impartial and without regard to party loyalty. Elected members should not be subject to the party whip.

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