

Annual Report of the Ethical Standards and Member Development Committee 2022-2023



Chair's Foreword

I am pleased to present the Annual Report of the Ethical Standards and Member Development Committee for 2022-23.

Its been a busy year with steady progress being made. There has been a reduction in the number of complaints received, with the arrangements process being robustly tested with a standards hearing at the end of last year.

Feedback received from the LGA and Grant Thornton has been positive and the authority continues to make improvements in all areas.

There will be a focus on member development and, in particular ahead of the new municipal year, there will be a review of the member induction programme for newly elected members.

I would also like to 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.

Finally, I would like to thank members of the Ethical Standards and Member Development Committee and the Independent Persons for their attendance and contributions during the past year and also the Monitoring Officer and his officers who have provided support throughout the year. In particular, my thanks to Mr John Tew who announced his intention to retire at the end of February. Mr Tew has provided an outstanding service to the authority in his role as Independent Person.



Councillor Keith Allcock
Chair of the Ethical Standards
and Member Development Committee



Committee Activity Overview

1.1 Work Programme Spotlight

Following on from the comprehensive review of the Members' Code of Conduct and Arrangements for Dealing with Standards Allegations, the Committee's work programme has continued to look at those matters identified as part of the review and also its regular programme in relation to member development programme, personal safety of elected members, gifts and hospitality, national cases and the work of the Committee on Standards in Public Life. In particular the business of the Committee included:-

1.2 Government Response to Committee on Standards in Public Life's Ethical Standards Review

In January 2019 the Committee on Standards in Public Life ("CSPL") published its review report into ethical standards. In the report the CSPL made 26 recommendations (24 of which were directed at Government), which included various amendments to legislation as well as a number of examples of best practice that Local Authorities could implement without the legislative changes.

Since that time, the Local Government Association has implemented the first recommendation which is the adoption of a model code of conduct. This was published in 2020 and the Council adopted it in March 2021.

On Friday 18 March 2022, in a letter from Kemi Badenoch MP, Minister for Equalities and Levelling Up Communities, the government issued its response to the CSPL report.

The Committee noted the response to the key recommendations.



1.3 Local Government (Disqualification) Act 2022

The Local Government (Disqualification) Act 2022 (“the Act”) came into force on 28 June 2022.

The Act amends the current legislation to extend the disqualification criteria for Local Authority members (Councillors, Mayors of Combined Authorities, the Mayor of London and London Assembly Members).

Its provisions include disqualifying a person, depending on the status of the relevant order or notification, from being elected or being a member of a local authority or the mayor for the area of a combined authority in England, if they are subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 or a sexual harm prevention order, sexual risk order or related relevant orders.

In relation to criminal activity (not related to election practices) the current disqualification criteria for Councillors, directly elected Mayors and London Assembly Members is that they are disqualified from standing for election or holding public office if they have been convicted of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine.

The Act ensures that those who hold public office are held to the highest standards of integrity and conduct in public life and supports the Nolan Principles.

1.4 Gifts and Hospitality

The Monitoring Officer maintains a public register of members’ interests and also a record of any gift or hospitality received. The revised Gifts and Hospitality guidance was approved by Full Council on 23 March 2021. The value of gifts and hospitality required to be declared by members was reduced to £50.00 (previously set at £100.00).



Following the Committee on Standards in Public Life Best Practice recommendations (attached), gifts and hospitality has been added as a standing item for each meeting of the Ethical Standards and Member Development Committee, allowing the Committee to review new entries to the Council's register for elected members' gifts and hospitality declarations.

Guidance is available to all Members on how to treat offers of gifts and hospitality and the process for declaring such offers. This guidance forms part of the Council's Constitution.

1.5 Complaints Updates

An update on the activity of the Council's Monitoring Officer in relation to complaints received under the Councillor Code of Conduct is submitted to each meeting of the Ethical Standards and Member Development Committee.

Analysis below setting out statistics for a three-year period highlights the volume of cases dealt with compared to the most current period showing a more manageable caseload.

Member Complaints	
Calendar Year	Number of Cases
2020	16
2021	14
2022	10
2023	2

A hearing of the Ethical Standards Sub Committee was called in December 2022 to consider a member complaint. The arrangements procedure was tested and the opportunity will be taken to further review the processes to ensure they are effective.



1.6 DBS Checks for Elected Members

The Council is under a statutory duty to promote and maintain high standards of conduct, as set out in the Localism Act 2011. The introduction of DBS checks for members was raised as part of the consideration of this duty at the Member Engagement sessions held in December 2020.

The Committee has considered the matter and recommended that all members should be subject to a basic DBS check and those members in identified specific roles should be asked to consent to enhanced DBS checks on an annual basis.

A protocol has been prepared for consideration by Full Council.

1.7 Member Development Programme

The Member Development Programme aims to offer learning and development in support of Member effectiveness and confidence in their roles. A new and revised programme was implemented in 2022 that reflected the issues identified across external reviews and associated improvement plan whilst aiming to build on the programme developed over the previous 4 years.

External reviews at the beginning of 2022 identified a series of recommendations and areas of focus to move the organisation forward. These have influenced the content of the member development activities offered to date.

Whilst a number of programmed events are initially targeted toward newly elected Councillors as part of the induction programme, attendance is widened to include all Members, to facilitate the sharing of knowledge and experience. The learning and development events are offered over a variety of mediums and the use of external facilitators is incorporated where possible. In addition, Members are encouraged to access national programmes with the aim of networking and benchmarking with colleagues from other local authorities. Going forward, our Member Development Programme will identify individual member learning pathways alongside a corporate governance strand of learning and development essential for all elected members.



Levels of attendance for learning and development activity is varied and overall average attendance across all member development activities is at 48.8%. This is something that the Committee will keep under review going forward.

Included in the ongoing review of learning, development and support offered to members, personal development plans (PDPs) continue to take place in order that the offer for the 2023/24 programme is tailored toward the identified needs of Councillors. PDPs provide a platform for confidential one to one conversations on member achievements, aspirations and associated support going forward. The PDPs also capture skills, knowledge, experience and learning outside of the Council environment, to avoid duplication of learning and development activity.

1.8 Review of Personal Safety of Elected Members

The Committee regularly reviews personal safety of elected members, following a number of high profile incidents nationally.

The Local Government Association has reflected growing concerns about the impact an increasing level of public intimidation and toxicity of debate is having on our country's democratic processes. This is something that the Committee is keen to explore further, understanding what this means for Sandwell councillors and it is recommended that a review of our process and guidance for elected members in relation to their personal safety is included in the work programme for the coming year.

Personal safety training is included in the Member Development Programme and is provided annually to elected members.

1.9 MyCouncillor Portal

The MyCouncillor Portal was introduced for Members in March 2021 and rolled out across the Council from June that year. the Portal aims to provide a platform for Councillors to access a range of local information, and to also act as a single point system for logging of service request and casework. In excess of 15600 service requests and case work items have been logged since its launch.



Since coming online, additional functionality now means that Members will soon be able to access real-time information on a range of issues including clusters of reports of common community service requests, for example fly tipping or pot holes. Any service requests logged on the MySandwell app now automatically link into the portal casework, so that Members are able to utilise both platforms.

In November 2022, Sandwell Council won the national Granicus Digital Public Sector Awards in the Digital Achievement and Operational Efficiency categories, recognising the positive outcomes arising from the introduction of the MyCouncillor Portal. Congratulations and thanks to colleagues in Democracy and Digital Transformation for their continued support to Members in maintaining and developing the portal functionality.

1.10 Annual Review of the Members' Code of Conduct and Arrangements for Dealing with Complaints under the Code

On 23 March 2021, the Council adopted the Local Government Association's (LGA) Model Code of Conduct. It also updated its Arrangements for dealing with Complaints under the Code of Conduct to ensure they were effective.

It was agreed by the Ethical Standards and Member Development Committee that the Code of Conduct and Arrangements would be reviewed on an annual basis, alternating between a desktop review and an annual review. An annual review of the Code and Arrangements has been completed and no amendments are recommended at this stage.

1.11 Review of the Committee on Standards in Public Life Best Practice Recommendations

As part of its review of ethical standards in local government, the Committee on Standards in Public Life set out a number of Best Practice Recommendations.

A further review of the Best Practice Recommendations has been undertaken to highlight the Council position and progress made.



1.12 Committee on Standards in Public Life review – “Leading in Practice”

The Committee considered the Committee on Standards in Public Life published its report “Leading in Practice” in January 2023.

The report gathers insight from leaders in the public, private and charitable sectors and looks at how a range of organisations have approached the challenge of embedding ethical values in their culture and in the services they deliver.

1.13 Member – Officer Relationship Insight

The Committee considered the proposal for a survey designed to support the work around member-officer relationships.

A positive relationship between Members and Officers is a core feature of an effective and performing council. It was raised by Grant Thornton as an issue in their Value for Money Governance Review, 2021.

A range of activity has taken place over 2022 and is continuing to help maintain effective working relationships between Members and Officers. This includes training and ongoing support from the LGA, regular dialogue between Members and Senior Officers (through a set of established meetings), getting to know you sessions for Members and Officers and a programme of all Member briefings.

In late 2022, Grant Thornton and the LGA conducted follow up visits to review the progress of the recommendations made in their earlier reviews. In relation to the Member -Officer Relationship, the reports outlined the positive change that had occurred and was evident.

The survey is proposed to be run twice a year for all Members and Officers in March/April and September/October. It will be reviewed after the first year to ensure that the survey approach remains fit for purpose and is adding value. The survey analysis will be presented to the Ethical Standards and Member Development Committee to guide future iterations of the Member Development Programme.



The Committee

- 2.1 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.
- 2.2 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 2022-23, including the wider remit of member development.
- 2.3 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.



- 2.4 The Committee also appoints to 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.

Membership of the Committee

- 2.5 Inclusion of experience from all areas of the decision-making process gives the Committee a broad base of experience from which to make well-rounded decisions on ethical matters.
- 2.6 The Council's Constitution includes role descriptions for the Chair of the Ethical Standards and Member Development Committee and for its members. The role descriptions emphasise the impartial and non-political nature of the conduct of the Ethical Standards and Member Development Committee.

Independent Persons

- 2.7 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 of Sandwell Council or their relative or close friend.
- 2.8 The Act gives discretion to appoint one or more Independent Persons but provides that the Independent Person must be consulted before any decision is taken on a complaint which has been investigated.
- 2.9 The Council currently has one Independent Person; Mr Richard Phillips, following the retirement of Mr John Tew this year. Mr Tew has been thanked for his fantastic support, advice and strong approach to the role with integrity and professionalism. A recruitment exercise is due to take place.



- 2.10 The remit of the 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.
- 2.11 Independent Persons are invited to attend all meetings of the Ethical Standards and Member Development Committee as observers.

Officer Support to the Committee

- 2.12 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.
- 2.13 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.

The Ethical Framework

Members' Code of Conduct

- 2.14 The Council's Code of Conduct assists members and co-opted members to meet the provisions of the Localism Act 2011 and is available on the Council's website.



- 2.15 All elected members are issued with a copy of the Code of Conduct and on appointment 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.
- 2.16 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.
- 2.17 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 through 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.
- 2.18 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.
- 2.19 The Monitoring officer also maintains a register of sensitive data which is recorded on the elected members declaration but not the public record. The elected member must make a case to the Monitoring Officer to have information placed on the sensitive register.



- 2.20 A review of the Code of Conduct was undertaken following the publication of the LGA Model Code of Conduct. As part of the Best Practice Recommendations of the Committee on Standards in Public Life, an annual review is taken of the Code of Conduct (a desktop review one year and a full review the following year). A review has been undertaken and no changes have been recommended.
- 2.21 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. 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 an update is provided to each meeting of the Ethical Standards and Member Development Committee, following the Committee on Standards in Public Life Best Practice Recommendations.

Arrangements for Dealing with Standards Allegations

- 2.22 The Localism Act 2011 requires authorities to adopt arrangements for dealing with complaints about breaches of the Member Code of Conduct. The arrangements for dealing with standards allegations have been revised, alongside the review of the Member Code of Conduct (see paragraph 2.1 above).
- 2.23 Details of complaints received in relation to member conduct and the progress and outcome of consideration of these complaints are reported to each Ethical Standard and Member Development Committee.

Allegations of Misconduct by Members

- 2.24 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.



2.25 The Monitoring Officer receives the draft report and determines if the report is sufficient. 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.

How the work of the Committee contributes to the Corporate Plan

		<p>Through its work in promoting high standards of conduct, the Committee makes a positive contribution to the quality of governance of the authority.</p>
		
		<p>The standards of conduct influence public trust in the authority and enables Members to work effectively in the community.</p>

Continuous Development

- 3.1 The Ethical Standards and Member Development 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(s) and a senior legal officer deliver relevant training to all members and co-opted members on behalf of the Committee.
- 3.2 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.
- 3.3 The Committee also considers the Annual Report of the Committee on Standards in Public Life to broaden understanding and current topics.
- 3.4 The Ethical Standards and Member Development Committee continues to develop its own skills and expertise.



Looking Ahead

To help promote high standards and conduct and continuous development of elected members, the Committee will continue to work on the Member Development Programme, building on the review of the Members' Code of Conduct, Arrangements for Dealing with Complaints under the Code and the suite of supporting documents. In particular, there will be a review of the induction programme for newly elected members.

Linking in with the Committee on Standards in Public Life review "Leading in Practice" additional work will be undertaken on the ethical and cultural behaviour transformation, alongside the proposed member/officer insight work.

