

# Annual Report of the Ethical Standards and Member Development Committee 2023-2024



# Chair's Foreword

I am pleased to present the Annual Report of the Ethical Standards and Member Development Committee for 2023-24.

It has been another productive year with positive progress being made in continuing the development of ethical standards and member development across the Council. The report highlights just some of the work the Committee has undertaken throughout the year to ensure that standards remain high and that steps are made towards achieving the Council's Improvement Journey goals.

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.

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. Additionally, I would also like to thank our Council officers for their work and support.

Finally, I would like to give my thanks to our previous Monitoring Officer, Surjit Tour, who left the Local Authority in 2023. Surjit had provided an outstanding service to the Council in his role as Monitoring Officer.



**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 Committee on Standards in public Life Annual Report

In July 2023, the Committee on Standards in Public Life ("CSPL") published its annual report for 2022-23.

The CSPL are an advisory non-departmental public body sponsored by the Cabinet Office, which advises the Prime Minister on arrangements for upholding ethical standards across the whole of public life in England. The Committee does that by undertaking independent reviews and producing evidence-based reports.

This annual report was noted and considered by the Ethical Standards and Member Development Committee at its meeting on 7 November 2023. The annual report contained several references to previous cases that provided useful information on best practices for members.

## 1.3 Review of Independent Persons dealing with Standards Matters

The Localism Act 2011 requires that the Council must put in place arrangements for the appointment of at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision on an allegation against an elected member that it has decided to investigate.



A benchmarking exercise was undertaken to review remuneration packages from similar Local Authorities. As the role was a voluntary position, no annual allowance was paid in respect of the appointment, other than payment of travelling and subsistence expenses at the appropriate rate.

In November 2023, the Committee reviewed and considered allowances paid by other authorities in recognition of the responsibilities of role. This approach was permissible under s.28 of the Localism Act 2011 - 'a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment'.

As a result, the Committee requested that the Independent Remuneration Panel review and comment on the matter before reporting back to a future meeting of the Committee.

#### **1.4 Register of Members' Interests and Modern.gov**

The statutory requirements relating to the Register of Members' Interests are set out in Section 29 of the Localism Act 2011. It requires the Monitoring Officer to establish and maintain a Register of Members' Interests which also includes the interests of co-opted members of the Council.

During 2023, the Committee witnessed the rollout of Modern.gov's committee management system self-serve function. This option had been developed and implemented to allow members to directly access and update their registers. Training had been provided throughout the roll-out process and additional training is available on request.

The Committee were pleased that up-take had been positive and evidence clearly showed that the system was being used as intended. The function also enables the public to view details of each individual member's interests.



## 1.5 Member's Disclosure and Barring Service Checks

On 28th March 2023, the Council approved the protocol for DBS checks for members. Subject to them meeting the DBS eligibility criteria, enhanced DBS checks are now required for the following members:

- The Leader;
- Deputy Leader;
- Cabinet for Adults and Childrens;
- all Members of Children's Services and Education Scrutiny Board and Health and Adults Social Care Scrutiny Board;
- members of the Corporate Parenting Board;
- members of the Health and Wellbeing Board;
- any other Member who come into contact with children or vulnerable adults as part of their Council role and meet the frequency of contact set forth in legislation; and
- Basic DBS checks for all other members.

The position as of 15<sup>th</sup> January 2024 is as follows:

### Basic checks

Stage	Number
Completed and checked by the relevant Officer	25
Completed – current being processed by DBS	0
Online Form Completed – awaiting ID check	6
Online form not yet completed	10
Total	41



### **Enhanced DBS – Adults Workforce (15)**

<b>Stage</b>	<b>Number</b>
Completed and checked by the relevant Officer	10
Online Form Completed – awaiting return from DBS	0
Online Form Completed – awaiting ID check	1
Online form not yet completed	4
Total	15

### **Enhanced DBS – Childrens Workforce (15)**

<b>Stage</b>	<b>Number</b>
Completed and checked by the relevant Officer	2
Online Form Completed – awaiting return from DBS	2
Online Form Completed – awaiting ID check	0
Online form not yet completed	11
Total	15

In relation to the remaining roles for Enhanced DBS checks, the Council continues to liaise with the DBS to determine whether they will process such requests in view of the recommendations of the Independent Review of the Disclosure and Barring Regime published in February 2023. A response from the DBS is awaited.



The initial roll-out of DBS checks experienced delays due to administrative and staffing issues. Despite this, officers continued to process applications as quickly as possible. The Council's processing capacity has now increased and, as a result, officers are endeavouring to process the DBS checks of new members with the aim of completing all checks within three months of them being elected.

In March 2023, Council requested that the Leader of the Council, with cross party support, write to the Minister for Safeguarding to close a loophole in the legislation and consider the role of a Local Councillor as automatic qualification for Enhanced Checks as part of the planned Government review. The Committee has continued to monitor the progress of this recommendation.

## 1.6 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, gifts and hospitality remain 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.

## 1.7 Complaints Updates

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





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

<b>Member Complaints</b>	
<b>Calendar Year</b>	<b>Number of Cases</b>
2020	16
2021	14
2022	10
2023	TBC
2024 (as of March 2023)	TBC

## 1.8 Member Development Programme

The Member Development Programme (MDP) aims to offer learning and development in support of Member effectiveness and confidence in their roles. The MDP remains a live document that aims to meet any evolving development need and regular updates will continue to be presented to the committee for the foreseeable future.

Alongside the Council’s development offer, this year the Committee continued to support the on-going encouragement to Members to access the offer from partner organisations including the Local Government Association and Centre for Governance and Scrutiny. This includes a range of on-line resources, workbooks, webinars and in-person development activities and programmes that complement the Council’s programme. Where possible, opportunities for shared learning with other local authorities were also explored to ensure best practice is shared and an opportunity to network with peers.

The MDP continues to build on the new and revised programme that was implemented in 2022 and is frequently reviewed to ensure it continues to meet the identified and emerging needs of elected members and the wider organisation.

The learning and development events are offered over a variety of mediums including in-person and virtual sessions to ensure that members can access training via their preferred route. The use of





external facilitators is incorporated where possible and as received positive feedback on many occasions.

In total, 27 training sessions were hosted through the year. Levels of attendance for learning and development activity is varied and overall average attendance across all member development activities was 18 for the municipal year 2023/24.

For the 2024/25 municipal year, a new method to collect evaluations via an online form will be incorporated to obtain more consistent feedback.

## 1.9 Review of Personal Safety of Elected Members

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

Personal safety training is included in the Member Development Programme and is provided annually to elected members. Further developments for member personal safety will be made over the coming months to ensure that members feel safe to conduct their work.

## 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.

The Ethical Standards and Member Development Committee is responsible for oversight of the Council's ethical governance framework and arrangements for dealing with complaints received under the Code of the Conduct.

The Council's existing code of conduct has been in effect since 2021. Following an annual review, no major amendments have been made to the Code of Conduct. Instead, several minor technical changes have been made as follows:-

- Update to reflect designation of new Monitoring Officer and Deputy Monitoring Officer;



- paragraph 5.1 - update for the sake of clarity that where there was any ambiguity in relation to the stage one legal threshold, that the stage two initial assessment should also be completed;
- terminology – references to Standards Committee had been changed to the ‘Ethical Standards and Member Development Committee’ which was the correct title of the Committee;
- paragraph 7 – reference to recording an interview via MS Teams had been included; and
- the insertion of the word ‘normally’ when referencing timescales had been undertaken which was consistent with the approach throughout the document; this also allowed flexibility.

## 1.11 Members Toolkit

This year, work has commenced to produce a “members toolkit” to enable new and existing Councillors to have access to a variety of documents, tutorials and resources to assist in carrying out their duties.

The “members toolkit” aims to be a One-Stop-Shop for Councillors and allow them to have easy access to a range of information that covers Council, Cabinet, Scrutiny and Committees and Boards. It is anticipated that the information provided will give Councillors an overview and what to expect across each committee. The toolkit will allow members to see the scope of each committee and board and allow members to make an informed choice when putting their name forward to sit on those committees. It will also help members understand what each committee and board does and its relationship with regards to the decision making process.



# 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, who's contract has recently been extended until 2027
- 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

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

## 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.



