

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at the Jeffery Room,
Guildhall on Tuesday, 10 July 2007 at 5:00 pm.

J. Edwards
Interim Chief Executive

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
5. APPOINTMENT OF INDEPENDENT MEMBERS, CHAIR AND DEPUTY CHAIR J. Inch
x 7335
Solicitor to the Council to report
6. NEW CODE OF CONDUCT J. Inch
x 7335
Report of Solicitor to the Council (copy to follow)
- 7. WORK PLAN ISSUES J. Buckler
x 7341
Report of Solicitor to the Council (copy herewith)
8. PLANNING PROTOCOL J. Inch
x 7335
Report of Solicitor to the Council (copy to follow)
- 9. STANDARDS BOARD UPDATE J. Buckler
x 7341
Report of Solicitor to the Council (copy herewith)
10. EXCLUSION OF PUBLIC AND PRESS
THE CHAIR TO MOVE:
"THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT."

SUPPLEMENTARY AGENDA

**Exempted Under Schedule
12A of L.Govt Act 1972
Para No:-**

<TRAILER_SECTION>
A4924

Appendices

Item No. 7



NORTHAMPTON
BOROUGH COUNCIL

Name of Committee:	STANDARDS
Meeting Date:	10 July 2007
Directorate:	Chief Executive
Corporate Manager:	Francis Fernandes Solicitor to the Council and Monitoring Officer
Agenda Status:	Public part of Cabinet Agenda

Report Title	WORK PLAN – 2007 Onwards
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Recommendations

1. That the Committee consider the draft Work Plan attached and suggest any amendments or additions.
2. That the Solicitor to the Council consult with the Chair to agree the timescales to be put into the Plan and report these to the next meeting.

Background

The Draft Programme appended to this report sets out areas of work which it is suggested the Committee may wish to consider undertaking. Members may want to amend or add to the list.

Once a final list is agreed it is suggested that the Solicitor to the Council liaise with the Chair to allocate the work over the remaining four meetings of the Committee scheduled in the current Council year, and beyond that if necessary. A final programme with timescales will then be reported back to the next meeting.

The programme can of course be reviewed in future and would normally be considered again as a matter of course in twelve months time.

Authors – F Fernandes, Solicitor to the Council Tel: 837334
 J Inch, Senior Solicitor Tel: 837335



APPENDIX

STANDARDS COMMITTEE WORK PROGRAMME – 2007 ONWARDS

(DRAFT)

1. Code of Conduct Training for Members
2. Standards Training for Members of Standards Committee
3. Code of Conduct Training for Parish Councillors
4. Review Register of Interests & Gifts & Hospitality for Employees and Members
5. Review as to how effectively Members comply with the Code of Conduct
6. Review of the workings of the Standards Committee
7. Conduct Quarterly Review of Complaints Handling and Ombudsman Reports as received.
8. Review of Relevant Policies, eg Whistleblowing Policy & Procedures
9. Publicise Role and Work of Standards Committee – Action Plan to be Developed
10. Review of Ethical Governance Health Check & Any Action Arising
11. Prepare Annual Report for Full Council



NORTHAMPTON
BOROUGH COUNCIL

Item No. 9

Name of Committee:	STANDARDS
Meeting Date:	10 July 2007
Directorate:	Finance, Governance and Citizens
Corporate Manager:	Francis Fernandes Solicitor to the Council

Report Title	Update on National Position
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Recommendations

- (1) Bulletins 32 and 33 are attached for the information of Members of the Committee.
- (2) That the report be noted.

1. Background

- 1.1 The Bulletins provide an update on the recent work and advice from the Standards Board.
- 1.2 The Bulletins will normally be forwarded to members as published by the Standards Board.

2. General

- 2.1 The main theme of both Bulletins is the New Code of Conduct which came into force on 3 May 2007 (which will require formal adoption by the Council no later than 1 October 2007) and also the provisions of the Local Government and Public Involvement Health Bill which will impact on the work of the Committee.
- 2.2 The Local Government and Public Involvement in Health Bill will in the main provide:-

- for local Standards Committees to deal with the receipt and determination of allegations of breach of the Code of Conduct by Members
- for Standards Committees to provide information to the Standards Board about referrals and actions
- the Code of Conduct to cover unlawful actions undertaken at any time
- for the Secretary of State to make regulations in which the Standards Board can suspend a Standards Committee from deciding whether allegations should be investigated
- joint working for some or all of their responsibility
- powers to allow the creation of sub-committees to deal with any functions of a Standards Committee
- for the relaxation of report confidentiality requirements to allow information to be shared with Standards Committee
- for a Standards Committee to refer a report to the Adjudication Panel if it considers the sanctions available to it are insufficient
- that the Adjudication Panel's sanctions be widened to include lower sanctions to enable it to deal with any reports referred to it

2.3 The Standards Board has also confirmed that Ethical Standards Officers are able to issue directions to help resolve local problems where an investigation is not appropriate. It is considered that directions can be a useful way of tackling complaints where problems within a Council may be the cause of a members alleged misconduct. Circumstances where a direction may be more appropriate include where past investigations were ineffective in addressing persistent problems, personal conflict between members – tit for tat behaviour, allegations that appears to demonstrate a general lack of understanding of Council procedure/requirements of Code. A direction to the Monitoring Officer may include a review of procedures to make them more robust, arranging guidance or training, arranging medication.

2.4 The Standards Board believe that the new Code is clearer and simpler to understand. The major changes can be summarised as follows:-

- Definition of a **Personal Interest** has been relaxed.
- **Dual hatted members** will benefit from changes regarding declarations of interests.
- **Prejudicial Interests** only arise if a matter affects a member of their family or a close associate if it relates to their finances, concerns regulatory functions ie (Planning, Licensing), having knowledge that a reasonable member of the public would believe the public interest would be impaired.

- **Gifts or hospitality** over the value of £25 must now be included in the members register of interests.
- The **unlawful discrimination provision** has been replaced by a duty not to do anything that may cause the authority to breach its statutory duties under equality laws.
- A new provision prohibiting **bullying**.
- A new provision to **prevent intimidation** or attempting to intimidate anyone involved in an investigation.
- the Code does not incorporate the Ten General Principles of Public Life but members are required to read the Code together with the principles.
- Subject to the enactment of the Local Government and Public Involvement Health Bill, the Code will apply where criminal activity has been committed in a private capacity, but not in relation to other conduct which solely concerns a members private life.
- The ban on disclosing confidential information has been relaxed to allow disclosure to a third party for the purpose of obtaining professional advice and where it is reasonable in the public interest, made in good faith and does not breach the reasonable requirements of the Council.

3. Statistics

The most up to date statistics available at the time of writing this report are contained within Bulletin 33.

Complaints received by the Standards Board:-

1/4/06 – 31/3/07 – 3549 allegations

1/4/05 – 31/3/06 – 3836 allegations

The main facts of interest are as follows:-

Source of Allegations – 62% from members of the public

Allegations referred for investigation – 81% not referred

Type of Authority in allegations referred for investigation - 42% Parish Councils
- 28% District Councils

Final Findings – No further action - 54%

No evidence of breach – 39%

Referred to Adjudication Panel 3%

Referred to Monitoring Officer for Local Determination 4%

4. Summary

Any further updates since the date of writing this report will be reported verbally to the Committee.

J Buckler

2/7/07

Contents

- 1 Consultation on the Code of Conduct
- 3 The Local Government and Public Involvement in Health Bill
- 3 Directions
- 4 The revised Code of Conduct — acceptance of office
- 5 Annual Assembly 2007
- 6 Guidance programme for 2007
- 7 On the road with the Standards Board
- 8 After Livingstone — bringing your office or authority into disrepute
- 8 Seeking volunteers

Welcome to the February issue of the *bulletin*.

This is a timely edition of the *bulletin* — as we go to print we are in the middle of the government's consultation period on the wording of the revised Code of Conduct, and the *Local Government and Public Involvement in Health Bill* is going through the committee stage in the House of Commons. You will find articles on both of these issues in the pages that follow.

If the revised Code is to be introduced in time for the local elections in May, there is much work to do. We know that monitoring officers and members are keen to receive new guidance at the earliest opportunity, and work is well underway to make sure that it is ready to be released as soon as the new Code is published.

The *Local Government and Public Involvement in Health Bill* includes all the necessary provisions for a more locally-based conduct regime, with more responsibilities for standards committees and the Standards Board acting as a light touch regulator. It is anticipated that these arrangements will be introduced in April 2008. If they are to operate effectively from the outset, it is important that we start to work with authorities as soon as possible to develop examples of good practice. These can then be shared across all standards committees.

You will find an invitation in this issue of the *bulletin* for authorities that are interested in being involved in pilot work on the operation of the local filter, joint working or performance monitoring. The Standards Board is looking forward to working with a range of standards committees to develop robust arrangements, and to help ensure that the new devolved system of dealing with allegations has the confidence of members, officers and the public.

David Prince, Chief Executive

Consultation on the Code of Conduct

The Department for Communities and Local Government (DCLG) has started its consultation process on amendments to the Model Code of Conduct. The consultation paper can be found in the consultation section of DCLG's website at www.communities.gov.uk/.

The closing date for responses is 9 March 2007, so authorities wishing to submit views will need to act quickly.

The Standards Board for England welcomes the proposed changes and the support they will give to members in their community advocacy role. We will

continue to work with government and stakeholders as the consultation process continues and will be encouraging early implementation of the revised Code.

“It is important that the opportunity to have a clear, workable Code of Conduct — one that helps maintain high standards of conduct and supports democratic debate — is not lost.”

The revised Code implements almost all of the headline recommendations the Standards Board made to ministers following an extensive consultation with local government.

These are summarised as follows:

- The definition of personal interest has been changed to provide a more locally-based focus, to ensure that interests shared with a substantial number of other residents do not need to be declared.
- A new category of 'public service interest' has been introduced. This will make requirements less onerous for dual-hatted members and those members appointed or nominated by the authority to outside bodies.
- The unlawful discrimination provision is to be replaced by a duty that members should not do anything that would seriously prejudice their authority's statutory duties in regard to equality. This will allow action to be taken on some discrimination issues that have previously been outside the scope of the Code.
- Bullying is specifically referred to in the Code and its definition will be clarified by our published guidance.
- The 'whistleblowing' duty to report breaches by other members has been removed.
- Members will be able to disclose confidential information in the public interest (with Standards Board guidance on a public interest test).
- Certain behaviour outside of official duties will be regulated but it will be limited to unlawful activities (although implementation of this part of the Code will have to wait until the *Local Government and Public Involvement in Health Bill* is enacted).

- Prohibiting the intimidation of any person involved in an investigation, including the complainant, witnesses and officers of the authority.

The consultation paper also proposes changes to the rules relating to participation in meetings by members who have a prejudicial interest. With the consent of a meeting, those members will be allowed to make representations and answer questions on the matter before withdrawing from the room. This will particularly benefit members that may, for example, wish to make representations to a planning committee on their own planning application.

It is proposed that the current four model Codes will be combined into one consolidated Code. Certain provisions, such as those relating to overview and scrutiny, will not apply to authorities that do not operate executive arrangements.

The consultation paper is silent on the timing and implementation of the revised Code of Conduct following consultation, although the Standards Board understands that the revised Code is intended to be tabled in Parliament later in March, and that authorities will then have six months from May 2007 to adopt it.

The Standards Board for England would hope that authorities are in a position to adopt the revised Code of Conduct at their annual meeting in May. In order to achieve this, monitoring officers will need to consider the timetable that will need to be followed within their authority both for the adoption of the Code of Conduct and for training for members.

We would also encourage monitoring officers to work with their parish clerks to ensure adoption of the revised Code of Conduct by parish and town councils at an early opportunity. This should help to minimise any confusion that may arise by having two different Codes of Conduct applying within their area.

The Standards Board for England will be responding to the consultation paper and we would encourage other authorities to do so as well.

It is important that the opportunity to have a clear, workable Code of Conduct — one that helps maintain high standards of conduct and supports democratic debate — is not lost.

The Local Government and Public Involvement in Health Bill

The *Local Government and Public Involvement in Health Bill* fulfils the government's commitment to put a framework in place which allows local standards committees to deal with all aspects of the receipt and determination of allegations that a member has breached the Code of Conduct.

The Bill allows the Standards Board for England to undertake the strategic regulator role that we have always considered should be our primary function. It also responds to the Collins' judgement, making clear the government's view that some aspects of members' conduct that is undertaken in a private capacity should be capable of Code of Conduct regulation.

A brief summary of the main provisions in the Bill relating to standards is provided below.

- Standards committees will be responsible for the receipt of allegations and determining whether they should be investigated. If they are to be investigated, it needs to be decided whether it will be undertaken by the monitoring officer or the Standards Board.
- Standards committees must be chaired by an independent member.
- There will be a duty on standards committees to provide periodic information to the Standards Board about the allegations the standards committee has received and how it has dealt with them.
- The Code of Conduct will cover unlawful actions undertaken at any time.
- The Secretary of State will make regulations for the circumstances in which the Standards Board can suspend a standards committee from deciding whether allegations should be investigated.
- Standards committees will be allowed to undertake joint working for some or all of their responsibilities.
- There will be a general power to allow the creation of sub-committees to deal with any of the functions of a standards committee
- The provisions regarding confidentiality of reports are to be relaxed to allow information to be shared with standards committees.

- A standards committee will be able to refer a report to the Adjudication Panel for England if it considers that the sanctions available to it are insufficient. The sanctions available to the Adjudication Panel for England are also to be widened to include lower level sanctions. This will allow it to deal with any reports that are referred to it.

Once the Bill receives royal assent, the Secretary of State will need to make a range of regulations. This will include the use of the Standards Board's power to suspend standards committees, the operation of joint working arrangements, and the composition of sub-committees.

The Standards Board will produce statutory guidance on a range of issues such as how the assessment of investigations should be undertaken. This will include criteria for referring an allegation for investigation and guidance on joint working arrangements.

Directions

Ethical standards officers have been able to issue directions to help resolve local problems since November 2004, when the regulations for local determinations were amended. Since April 2006, 36 directions have been issued.

Directions can be a more useful way of tackling complaints in cases where problems within a council may be the cause of a councillor's alleged misconduct. In such cases, an ethical standards officer may decide that a direction may be more appropriate than an investigation. At the moment, only an ethical standards officer has power to issue a direction

Once a case has been referred for investigation, the ethical standards officer will try to identify any patterns of conduct or underlying issues that would be more appropriately dealt with by a direction rather than an investigation as soon as possible. If a monitoring officer has already dealt with previous complaints about the council, they will have an insight into whether an investigation will resolve the issues or make them worse.

Examples of where a direction may be more appropriate than an investigation include:

- Multiple allegations concerning members of a parish council (including those not referred for investigation). The concern here is that allegations would continue to be made unless some constructive steps were taken to deal with the cause of the problem.
- Past investigations were ineffective in addressing persistent problems.
- Personal conflict/communication problems between members — tit for tat behaviour.
- An allegation that appears to demonstrate a general lack of understanding of council procedures, or of the requirements of the Code.

The ethical standards officer can direct the monitoring officer to undertake a variety of actions depending on the particular circumstances facing the council, for example:

- Review procedures within the authority to make them more robust.
- Arrange mentoring, guidance or training.
- Arrange mediation between councillors using a facilitator.

Issuing a direction can present its own difficulties, especially at the time when the parties are informed of the proposals. Ethical standards officers often receive an initially negative response to a proposed direction, as the parties involved are often reluctant to consider a direction as a way of resolving disputes. The complainant may want the complaint investigated and the subject member may want to be vindicated.

We will give as much support as possible to a monitoring officer in carrying out a direction. Where it is a parish issue, it is often helpful to obtain the assistance of the local County Association of Local Councils, and to explore what assistance may be available from the standards committee.

If an allegation is already being investigated locally and there are subsequent allegations which indicate a direction may be more appropriate, or if the monitoring officer raises concerns about the impact of an investigation on the council and considers a direction more appropriate, the monitoring officer may ask to refer the case back to the ethical standards officer. This is so that a direction may be considered. Monitoring officers must inform the ethical standards officer about the action they have taken in response to the direction.

The ethical standards officer may, if unhappy with the report, require the monitoring officer to publish a statement giving details of the direction and reasons for failing to implement it. For example, it may be necessary to publicise the fact that a member is reluctant to take part in a process that has been devised to improve the functioning of the council. If the monitoring officer indicates that the aims of the direction have been met, and the ethical standards officer is satisfied that the members have complied with the direction, the matter will be closed.

You can find examples of when directions have been used in the *Case Review* number four, available from our website at www.standardsboard.co.uk

The revised Code of Conduct — acceptance of office

The planned implementation of the revised Code of Conduct later this year has raised the issue of whether members who sign a declaration of acceptance of office when they are elected will have to sign another declaration of acceptance of office when the revised Code is adopted by their authority.

The Standards Board does not believe that this is necessary: Section 52(2) of the *Local Government Act 2000* says that the declaration may include an undertaking by the member to observe the authority's Code of Conduct "for the time being under section 51".

The *Local Elections (Declaration of Acceptance of Office) Order 2001* [SI2001/3941] provides the form of declaration that members must sign when they are elected. This says that:

"I undertake to observe the code as to the conduct which is expected of members of [insert name of authority]."

Both of these provisions appear to refer to being bound by whichever Code is in force at the authority.

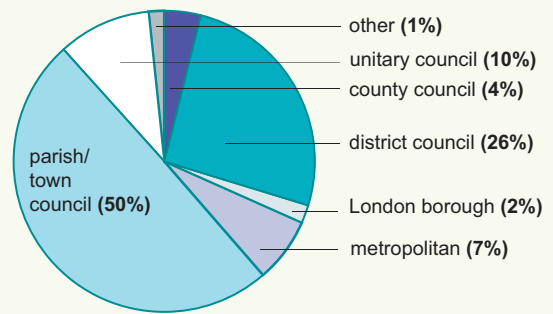
Taken together we consider these provisions to mean that the member is bound by whichever Code currently applies at the authority and, therefore, there is no need to sign another declaration when the revised Code is adopted.

Referral and investigation statistics

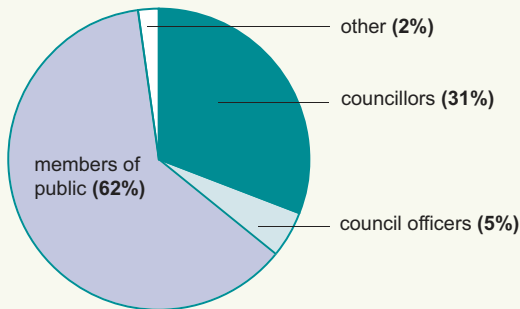
The Standards Board for England received 2,498 allegations between 1 April and 31 December 2006, compared to 2,949 during the same period in 2005.

The following charts show referral and investigation statistics during the above dates in 2006.

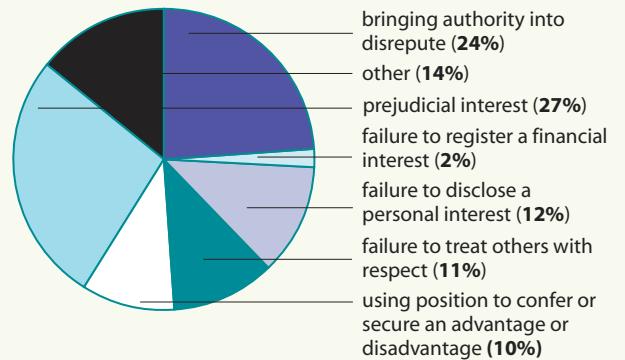
Authority of subject member in allegations referred for investigation



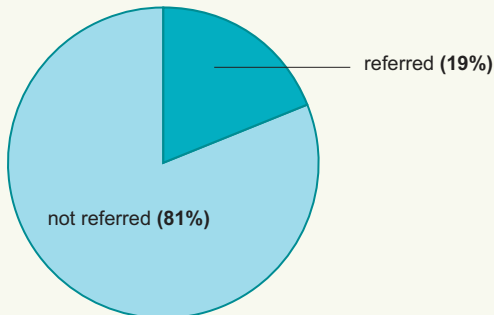
Source of allegations received



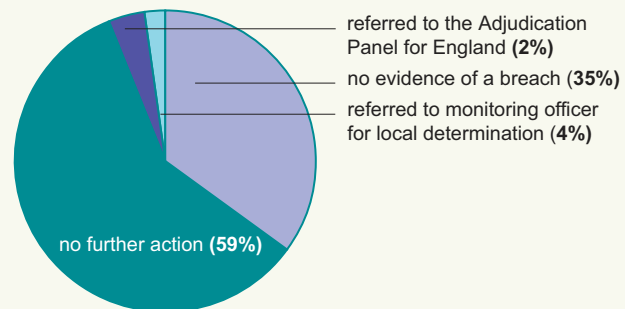
Nature of allegations referred for investigation



Allegations referred for investigation



Final findings



Annual Assembly 2007

***Down to Detail* — making local regulation work is the sixth Annual Assembly of Standards Committees, to be held on 15-16 October 2007 at the International Convention Centre in Birmingham.**

With the move to a local filter system for complaints fast approaching, the conference will set out how to put this into action and achieve greater consistency and effectiveness in local regulation.

Down to Detail will also explore the vital issues raised by the revised Code of Conduct, and will feature practical workshops and plenaries focusing on understanding the key changes.

Conference topics include:

- a step-by-step guide to the local filter process, including new reporting requirements
- managing referrals, investigations, hearings and sanctions
- joint working
- mediation
- an introductory overview of the revised Code
- confident communications
- engaging leaders

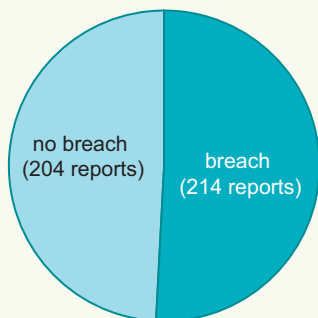
The Annual Assembly is the leading conference on issues concerning standards committees. Booking details will be sent to all authorities in March.

Local investigation statistics

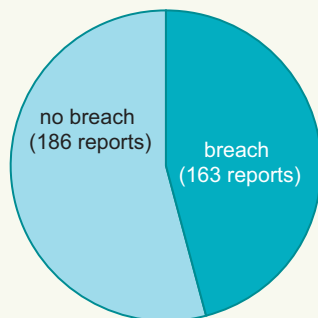
Of all cases referred since November 2004 for local investigation we have received a total of 418 reports — please see below for a statistical breakdown of these cases.

(NB: for the period 1 April — 31 December 2006, ethical standards officers referred 252 cases for local investigation - equivalent to 52% of all cases referred for investigation.)

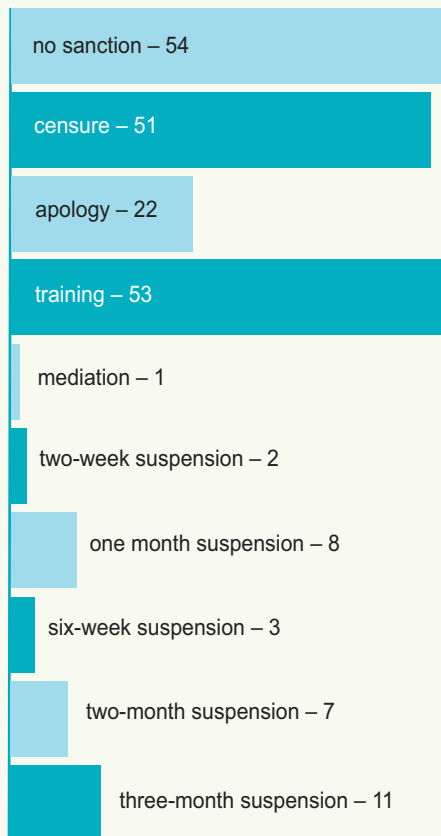
Monitoring officers' recommendations following local investigations



Standards Committee hearings



Standards committee determinations



Guidance programme for 2007

In *bulletin 31* we discussed the Standards Board's commitment to producing guidance and training materials to help monitoring officers and standards committees implement the revised Code of Conduct. We are now working on the specific details of our Code guidance programme for 2007.

This will include a new DVD to help local authorities train members. The DVD will explain the revisions to the Code using dramatised scenarios to illustrate particular paragraphs, and we expect to be able to release it soon after the revised Code comes into force.

We are also planning to publish guidance in written form similar to our current range. This will

include a general guide to the revised Code and a detailed guide to the declaration of interest paragraphs. We expect to publish these two publications, along with a simple guide, on our website as soon as the Code comes into force.

The guidance will be available in booklet form soon afterwards and every authority covered by the Code will receive copies.

This year we will also publish a fifth *Case Review*, which will be similar to our *Code Q&A Case Review Volume 1*. This is a paragraph-by-paragraph consideration of the code illustrated by past cases. As such, it will contain specific guidance on the new bullying paragraph expected to be included in the revised Code.

On the road with the Standards Board

We will be hosting a series of 11 roadshows across the country in June 2007. The focus will be on the revised Code of Conduct and preparing for the proposed introduction of the local filter system for complaints in 2008.

The roadshows will offer an opportunity to discuss any issues that have arisen since the implementation of the revised Code and any concerns about local preparation for dealing with complaints.

As in previous years, the roadshows will take the format of presentations and discussions, and delegates will be encouraged to participate in question and answer sessions. Board members and the chief executive will also be on hand to answer any queries.

Invitations have already been sent out to local authorities as well as the parks, police, transport and fire authorities that are also covered by the Code. The roadshows will be mainly aimed at monitoring officers and members from local standards committees.

Previous roadshows have offered the Standards Board an excellent opportunity to engage with delegates, answer queries, and offer guidance and support. They also offer delegates the chance to network informally with colleagues from the local area.

Dates and venues of the roadshows are:

- Liverpool – 6 June
- Leeds – 7 June
- Newcastle – 12 June
- Nottingham – 13 June
- Birmingham – 14 June
- Truro – 19 June
- Exeter – 20 June
- Winchester – 21 June
- Swindon – 26 June
- Norwich – 27 June
- London – 28 June

For more information please contact our event managers, Benedict Business Resources, on 01483 205432.

After Livingstone — bringing your office or authority into disrepute

The only sections of the Code of Conduct which apply to a member when not acting in an official capacity are the requirement not to bring the office or authority into disrepute and the requirement not to misuse their position to confer an advantage or disadvantage on yourself or any other person. These also apply "in any other circumstances".

The recent High Court decision in the case of *Livingstone v Adjudication Panel for England* changes the interpretation of what these words mean, making them more restrictive.

The court said that the circumstances are limited to situations when a member is performing his or her functions or purporting to use their status as a councillor.

There appear to be three main principles that need to be present for the behaviour under consideration to amount to a breach of the Code.

- A member must have used or sought to use their status as a member of the council. This is a "using one's position" test.
- The use of the status must be of a type that is capable of amounting to a failure to comply with the Code (for example: behaviour that amounts to treating others with disrespect; bullying; use of confidential information; and so on). This is a breach of Code test.
- The disrepute must attach to the office or the authority and damage it, as opposed to simply damaging the member's reputation. This is a damage to reputation test.

A case tribunal or standards committee will need to be persuaded that the misconduct can damage the reputation of the member's office or authority, not just the reputation of the individual concerned.

Certain kinds of conduct (for example drink driving or petty theft) may damage the reputation of an individual but will rarely be capable of damaging the reputation of the office of councillor or the reputation of the authority.

Establishing when disrepute attaches to the office or council is not easy because the High Court gave no indication of what tests to apply.

Here are some of the possible factors:

- Prejudicing the public interest for private gain (for example a councillor uses their position to obtain confidential information which they then use to secure a personal profit).
- Using or trying to use position or status as a member of the council (for example a councillor is in dispute with a neighbour about their planning application and threatens to speak to contacts who control the planning committee).
- Defying important and well established rules of the authority for private gain.
- Engaging in conduct which directly and

significantly undermines the authority's reputation as a good employer or responsible service provider (for example sexual offences against children committed in a village hall run by the council of which the offender is a member).

What is clear is that each case will need to be dealt with on its merits. The government wants to extend the scope of these provisions and has made proposals to do so in the new *Local Government and Public Involvement in Health Bill*, which is discussed on page 3.

Seeking volunteers

The White Paper *Strong and Prosperous Communities* outlines a future ethical framework where local government takes greater responsibility for their ethical environments and the Standards Board has a role as a light touch, strategic regulator.

We are keen to work with local government to develop the various aspects of our respective new roles.

As such we are looking for volunteers to work with us as pilot sites on the following topics:

- Joint arrangements for standards committees.
- Operating the local filter.
- Developing the Standards Board's monitoring and auditing role (identifying what data to collect, how to collect it and types of intervention).

We are asking volunteers to test and comment on the instruments and approaches we have developed. It is likely to involve the monitoring officer, standards committee members, and possibly other officers such as the chief executive. We will endeavour to ensure that your involvement is not too resource intensive.

The work will initially take place between May and September 2007. If you would like to be involved, then please e-mail gary.hickey@standardsboard.co.uk. Please also state which of the pilots you would like to be involved in — you can choose more than one.

If we have a large number of volunteers it is possible that we will not be able to include all those authorities that wish to take part. However, we will respond to everyone that puts themselves forward. If you have any queries then please contact Gary on 0207 378 5087.

Contacts and more information

Please feel free to let us know any ideas and suggestions you may have for future issues of the *Bulletin*, along with any questions or feedback. Please send comments to:

- bulletin@standardsboard.co.uk
- The Standards Board for England
First floor, Cottons Centre
Cottons Lane
London SE1 2QG

More information

You can get more information on the Standards Board for England and the Code of Conduct, including case summaries, frequently asked questions and guidance for members from our website at www.standardsboard.co.uk

THE BULLETIN # 33

May 2007

Contents

Page 2

The new Code of Conduct

Page 3

Adopting and amending the new Code of Conduct

Advertising the new Model Code

Page 4

Special advice for parish and town councils

Page 5

Local investigations – update

Research findings

Roadshow and Annual Assembly news

Page 6

Relocation and contact details

New director of casework and head of legal services

Page 7

Statistics

Contact

Enquiries line: 0845 078 8181
www.standardsboard.gov.uk
email: bulletin@standardsboard.gov.uk

Welcome to Issue 33 of the Bulletin.

The new Code of Conduct has now come into force and we would urge authorities to adopt it at the earliest opportunity. The Standards Board for England welcomes this new Code, which addresses issues that emerged during the consultation process. We believe that it is now clearer and simpler to understand and that it will allow members to properly represent their constituents on matters that concern them.

Standards committees have a responsibility for ensuring that members within their area receive appropriate training on the new Code, so that they fully understand their obligations. This is an important function for them and an opportunity for authorities to demonstrate their commitment to high standards of probity and governance.

The Standards Board has published comprehensive guidance on the new Code on our website at www.standardsboard.gov.uk

Monitoring officers will also receive hard copies of the guidance soon. We will be producing a range of training materials, available from our website shortly, and a DVD which will be distributed in July.

The forthcoming roadshows being held around the country in June will provide an opportunity for us to find out your early views on the new Code and emerging themes. If you have not already booked your place on these roadshows, I would encourage you to do so soon as places are being filled quickly. Please visit our website or email roadshow2007@standardsboard.gov.uk for further details.

David Prince
Chief Executive



the Standards Board
for England

Confidence in local democracy

The new Code of Conduct

The revised Model Code of Conduct came into force on 3 May 2007. Authorities have until 1 October 2007 to adopt the Code formally. If an authority fails to adopt the Code before that date, the mandatory provisions of the Code will apply until the authority adopts its own Code.

There are a number of major changes to the Code and these are summarised below:

- The definition of a **personal interest** has been relaxed. Interests that are shared with most people in the ward or electoral division affected by the decision will not have to be declared. However, the definition will not change for many parishes or other authorities that do not have wards or electoral divisions.
- **Dual-hatted members** and those members appointed or nominated by the authority to outside bodies will also benefit from changes to the rules regarding declaration of interests. Where a matter that affects the other body is being discussed at a meeting of the authority, these members will not be required to declare that they have a personal interest in the matter before they vote, unless they wish to speak on the matter or where the personal interest is also a prejudicial interest.
- **Prejudicial interests** now only arise if a matter affects a member, their family, or their close associates in the following ways:
 - it relates to their finances or
 - it concerns regulatory functions such as licensing or planning which affect them
 - and a reasonable member of the public with knowledge of the facts

would believe their ability to judge the public interest would be impaired.

Even where members have a prejudicial interest, the Code supports their role as a community advocate and enables them, in certain circumstances, to represent the community and to speak on issues important to it and to the member. Paragraph 12(2) of the Code gives members with a prejudicial interest in a matter the same rights as members of the public to speak to a meeting on the matter. However, once they have done so, the member must immediately leave the meeting room, as currently required, and cannot remain in the public gallery to observe the vote on the matter.

- **Gifts or hospitality** over the value of £25 must now be included in the member's register of interests. This means that a personal interest must be declared at any meeting where a matter relating to that interest is discussed.
- The **unlawful discrimination provision** has been replaced by a duty not to do anything that may cause the authority to breach its statutory duties under equality laws (including anti-discrimination laws). As a result, discriminatory behaviour can now be dealt with through the Code.
- A new provision makes it clear that **bullying** is prohibited by the Code.
- Another new provision states that members must not **intimidate or attempt to intimidate** anyone involved in an investigation, such as a complainant, a witness or an officer involved in the conduct of an investigation.
- The Code does not incorporate the **Ten General Principles of Public Life** but

members are required to read the Code together with these general principles. Although members are not legally obliged to observe the principles, a failure to follow them may indicate behaviour that could potentially breach the Code.

- Subject to the enactment of the Local Government and Public Involvement in Health Bill, the Code will apply where **criminal activity** has been committed in a private capacity, but not in relation to other conduct which solely concerns a member's private life.
- The ban on **disclosing confidential information** has been relaxed to allow disclosure of confidential information where:
 - the disclosure is made to a third party for the purpose of obtaining professional advice (provided that person agrees not to disclose it)
 - the disclosure is reasonable and in the public interest, made in good faith, and does not breach the reasonable requirements of the authority

The Standards Board's comprehensive guidance on the new Code of Conduct is available on our website at www.standardsboard.gov.uk

We will be sending printed copies of the guidance to all monitoring officers and parish clerks soon.

Adopting and amending the new Code of Conduct

The new Code of Conduct applies to the same range of authorities covered by the existing Code. However, only one composite Code has been made for different types of authorities. As a result, some paragraphs are

not mandatory for your authority, and particular wording within mandatory paragraphs may not be relevant to your authority. For example, some paragraphs refer specifically to executive arrangements and overview and scrutiny which parishes do not have, while other paragraphs expressly apply only to the Greater London Authority or Metropolitan Police Authority.

Councils may adopt a version of the Model Code that excludes non-mandatory provisions or wording that is not relevant to the particular authority, so long as it is consistent with the application of the mandatory provisions to that relevant authority. To avoid confusion and ensure consistency, we recommend that any amendments do not affect the subsequent numbering of paragraphs. To assist parish and town councils, we have prepared a 'Model Code of Conduct for Parish and Town Councils' which is available from our website.

If your authority simply adopts the Model Code, this means that it does not adopt the non-mandatory paragraphs for that authority. For example, paragraph 12(2) is not mandatory for parish and town councils, English and Welsh police authorities, the Greater London Authority, national park authorities, and fire and rescue authorities. Therefore, if these types of authorities wish to adopt paragraph 12(2), they will need to do so expressly. See also the article on page 4 *Special advice for parish and town councils adopting the new Code of Conduct*.

Advertising the new Model Code

As soon as your authority has adopted a revised Code of Conduct, it must send notification to the Standards Board and make copies available for inspection by the public. It must also publish a notice in a local newspaper, stating that the council has adopted a revised Code. The authority can also publish the notice in its own newspaper, if it has one, but this cannot be the only notice that is published.

This duty to publish a notice will again be relevant when the Model Code comes into effect. When the previous Code was introduced, some unitary and district councils organised combined notices for councils in their area. This can save money, especially where there are a large number of parish councils.

To enable a monitoring officer to coordinate a combined notice, parish clerks will need to ensure their councils adopt the revised Code quickly and confirm to the monitoring officer where copies of the Code can be inspected within the parish. This information can then be fed into the notice published in the newspaper.

If you are a local authority, the easiest way to notify the Standards Board of your adoption of the Code is to send an email to Kimberley Connell in our Policy and Guidance team at enquiries@standardsboard.gov.uk.

Special advice for parish and town councils adopting the new Code of Conduct

Parish and town councils can maximise their ability to exercise democratic rights under the new Code of Conduct by taking certain actions.

A new paragraph 12(2) gives elected members with a prejudicial interest the same rights as members of the public to speak to a meeting on the issue, but then leave before the main discussion and vote. This part of the revised Code does not automatically apply to parish and town councils.

It is not enough, therefore, for parishes to simply adopt the Model Code “as applicable to parish councils” – paragraph 12(2) is not mandatory for parishes. In order to take advantage of the amendment, parish councils will need to pass a resolution adopting the Model Code of Conduct including paragraph 12(2).

Each parish and town council wanting to take advantage of this provision should notify the Standards Board of the resolution passed and the date on which it was passed. This information can be sent electronically to Kimberley Connell in our Policy and Guidance team at enquiries@standardsboard.gov.uk.

We recommend: “to adopt the Model Code of Conduct for Members including paragraph 12(2), effective [insert ‘immediately’ or ‘specific date’]”.

The Standards Board also recommends that parishes should consider having standing orders in place to allow members of the public to attend meetings of the authority for the purpose of making representations, giving evidence or answering questions.

The revised Code gives councillors the same rights to speak as members of the public, but if an authority’s standing orders or procedural rules do not provide members of the public with these rights, or if an authority has no standing orders in place at all, paragraph 12(2) will have no effect.

This means that councillors with a prejudicial interest would have to leave a meeting after declaring the nature and extent of their interest, just as they have had to under the old Code of Conduct. They will not be able to take advantage of the freedom offered by the new Code to allow members with a prejudicial interest to speak in certain circumstances.

The Standards Board has prepared a ‘Model Code for Parish and Town Councils’ which is available from our website. It has been created to assist parish and town councils in adopting the relevant mandatory paragraphs and the ‘voluntary’ paragraph 12(2), while excluding paragraphs that are not relevant to parishes.

We urge monitoring officers to bring the above information to the attention of parish clerks.

Local investigations – update

There has been positive feedback to a number of changes to our criteria for referring investigations back to monitoring officers for local investigation:

- We now retain complaints for investigations where the allegation, if proven, would undoubtedly warrant the Adjudication Panel for England’s penalties.
- We assess allegations against executive members on a case-by-case basis to decide if they should be investigated locally, and do not automatically retain such cases.
- We do not normally retain cases where a monitoring officer has a conflict of interest. We assume that an investigation can be delegated, outsourced or undertaken by a monitoring officer from another authority, but ethical standards officers exercise their discretion, especially in relation to monitoring officers from smaller authorities.

The Standards Board now has a local investigations co-ordinator who liaises with monitoring officers and other parties about the allocation and monitoring of local investigations. They can be contacted at local.investigationenquiries@standardsboard.gov.uk or on 0161 817 5372

Research findings

Thank you to those who returned questionnaires on the research undertaken by BMG Research entitled ‘Study into the operation and role of standards committees within local authorities’. This research has now been completed and the full report can be found on our website at:

www.standardsboard.gov.uk/Aboutus/Research

The research is a survey of monitoring

officers and standards committees and has increased our understanding of your activities, the resources available to you, the challenges you face and the support you may need in the future.

Delegates quick to sign up to roadshows

Bookings for the summer roadshow events have been flooding in over the past month, with several venues nearly fully booked. The London event on 28 June has proved so popular that a second roadshow will be run in the morning at 10.00am, in addition to the one taking place in the afternoon.

There are still some places available for the roadshows, which are taking place at 11 venues across the country and are aimed at monitoring officers and standards committee members. For further details on when and where visit:

www.standardsboard.gov.uk/Events

To book a place on the earlier London roadshow or any of the other events please contact our event managers, Benedict Business Resources, on 01483 205 432 or email roadshow2007@standardsboard.gov.uk

Annual Assembly – Down to detail: Making local regulation work

We have already received a significant number of bookings for the Sixth Annual Assembly of Standards Committees in October, with over 400 delegates signed up to attend.

Phil Woolas MP, Minister for Local Government and Community Cohesion, will open the conference by outlining how to meet the challenges of the local filter system and the revised Code of Conduct. He will also set out the government’s focus for the future.

There will be over 25 sessions covering issues such as the process and practice of managing the local filter, and a focus on

helping delegates to develop the skills and knowledge they need to deliver high standards of effective local governance.

Several sessions will address vital issues linked to managing the wider impact of the local filter and the revised Code. These will include training and hands-on workshops to help delegates focus on raising their authorities' standards to an even higher level. There will also be sessions on how to improve communication with stakeholders and confidently deliver effective local regulation.

An advanced copy of the conference programme is available at www.annualassembly.co.uk/Programme/

To book a place at the conference please contact our event managers, Benedict Business Resources, on 01483 205 432 or email annualassembly2007@standardsboard.gov.uk

Relocation and new contact details

The Standards Board has completed the key stage of our relocation from our offices in London to our new premises in Manchester. Our new details can be found below:

Fourth Floor
Griffin House
40 Lever Street
Manchester M1 1BB

Telephone: 0161 817 5300 (main switchboard)
Facsimile: 0161 817 5499

Web address: www.standardsboard.gov.uk

New director of casework and head of legal services

We are pleased to announce that two new heads of department have been appointed to oversee our Investigations and Legal Services teams.

Hazel Salisbury was appointed as the new director of casework in February.

Hazel brings with her a wealth of professional experience and a strong background in local government. She was admitted as a solicitor in 1987, and was later head of legal services and monitoring officer for Nottinghamshire County Council. Hazel also spent two years on secondment as monitoring officer at Lincolnshire County Council

Most recently, Hazel worked as a consultant in a private practice, providing member and monitoring officer training for local authorities.

Sara Goodwin took up the position of head of legal services earlier this month.

Sara was a lecturer in law at Leeds Metropolitan University for two years. She spent 12 years in the local government sector and is a former head of legal services and monitoring officer.

Most recently Sara worked as a consultant for SOLACE (the Society of Local Authority Chief Executives) providing support and monitoring officer training for local authorities.

Sir Anthony Holland, chair of the Standards Board said:

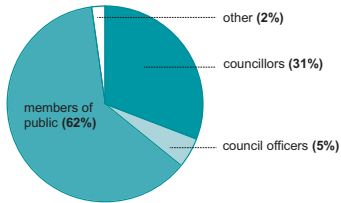
“We welcome both Hazel and Sara to the organisation. The Standards Board will benefit from the experience and knowledge that they have both gathered over the many years they have spent working closely with local government. They will have an important role to play in establishing the new teams in Manchester and meeting the challenges ahead.”

Referral and investigation statistics

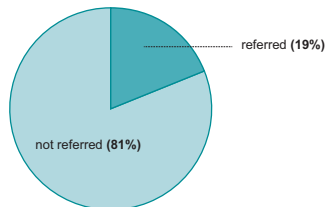
The Standards Board for England received 3549 allegations between 1 April 2006 and 31 March 2007, compared to 3836 during the same period in 2005/2006.

The following charts show referral and investigation statistics during the above dates.

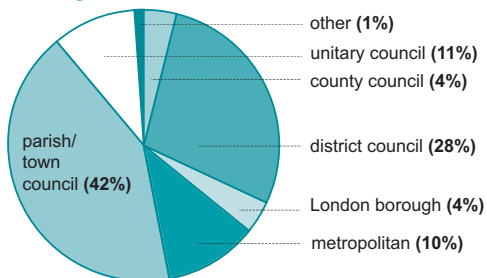
Source of allegations received



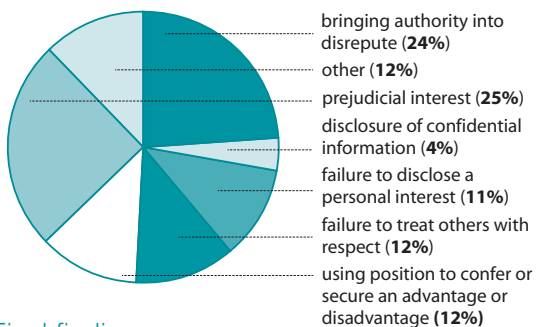
Allegations referred for investigation



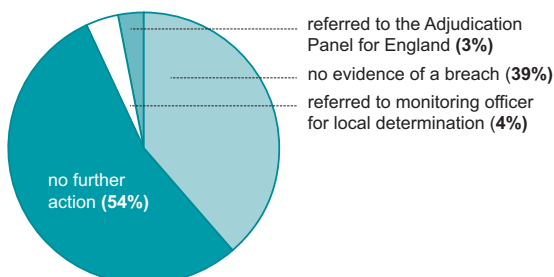
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



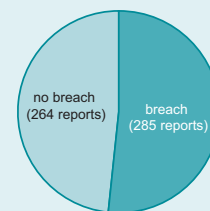
Final findings



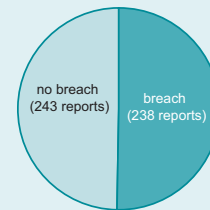
Local investigation statistics

Of all cases referred since April 2006 for local investigation we have received a total of 546 reports — please see below for a statistical breakdown of these cases. (NB: for the period 1 April - 31 March 2007, ethical standards officers referred 347 cases for local investigation — equivalent to 55% of all cases referred for investigation. Since 1 April 2006 there have been 18 appeals to the Adjudication Panel for England following standards committee hearings.)

Monitoring officers' recommendations following local investigations



Standards Committee hearings



Standards committee determinations

