

CITY OF DURHAM

**STANDARDS COMMITTEE
14 November 2006**

REPORT OF MONITORING OFFICER

1. Parish Representative Vacancy

The expressions of interest which had been received in relation to the present vacancy on the Standards Committee for a parish representative, were reported to Full Council on the 7 November. I will update Members verbally at the meeting in relation to this matter.

2. Ethical Governance Audit

The questionnaire was distributed last month and to date 36 replies have been received. Although the closing date for return of the questionnaires has now passed, I will still continue to accept forms which are submitted late.

When the responses have been collated these will be forwarded to Alan Lawton, formerly Professor at Teesside University and who is now at Birmingham University working for Inlogov. I will report back on the responses received and Professor Lawton's comments to a future meeting.

**3. Standards Board for England – Annual Conference
ICC Birmingham 15-16 October 2006**

The conference was attended by the Vice Chairman, Mrs Tina Naples. Her briefing note on the conference is attached as Appendix A.
The Conference Newsletter is attached as Appendix B

4. Complaints to the Standards Board for England

SBE 16378.06

I recently received from the Standards Board notification of an allegation and the Board's decision.

The complaint was made against a City Councillor who is a member of the Development Control Committee and was made by a member of the public.

The basis of the complaint was concerned with a planning application submitted by the complainant. The nature of the application was such that it would normally have been dealt with by the Chairman and Vice-Chairman under delegated authority. In accordance with the planning protocol a local member had asked the Chairman to agree to the matter being made the subject of a full report for determination by the Development Control Committee.

The letter making that request was sent to the City Council's planning office. In it the Ward Councillor gave as a reason for the request that the complainant "has already caused too much trouble in the area".

The complainant considered that the comment had a measure of discrimination, disrespect and an element of bias.

The decision of the Standards Board was not to refer the complaint for investigation. In their decision letter, the Board say that it is recognised Members are the elected advocates of the local community and therefore have a certain right to speak their minds on issues they perceive to be of local concern. However there is an expectation that such comments will be made at appropriate times and that when making such comments, they will treat others with respect. The Board also considered that letters relating to the calling in of planning applications should solely address matters directly relating to the application.

The Board felt that the Councillor's alleged comments about the complainant in the letter to the planning officer could, if proven, potentially be considered disrespectful although not in their view discriminatory. It was felt therefore that a potential breach of the Code of Conduct had been disclosed by the allegation but on balance this was not considered to be of a sufficiently serious nature to warrant referral for investigation.

In addition the Board mentioned that as the complainant considered the alleged comments to be both biased and libellous, allegations of bias and libel did not generally fall within the Board's remit to consider. It was suggested therefore that the complainant might wish to seek independent legal advice.

At the request of a complainant, the Standards Board Chief Executive can review a decision taken in relation to a complaint and if the review mechanism is to be triggered the complainant must make a written request within a period of 30 days from the notification.

Recommended that the report be noted.

5. The Local Government White Paper – Strong and Prosperous Communities

The long awaited white paper on local government was published at the end of October.

The introduction to the report talks of the Government giving local authorities and other local public services the freedom and powers to meet the needs of their communities and tackle complex cross cutting issues. A key theme is the idea of reshaping public services around citizens and communities who use them, that is to give them more individualised services and more choice. The white paper therefore talks about helping partnerships to work better, promoting strong and visible leadership for local authorities, introducing a new performance framework and providing more specific support for local authorities and their partners to address community cohesion issues.

There is a second volume to the report which looks in detail at the way in which the proposals set out in the first volume are expected to change the way in which Government tackles some of the biggest challenges for local services such as community safety, health and well being, vulnerable people, children, young people and families, economic development, housing and planning and climate change.

The section which is of interest to Standards Committee members is Section 3 which is entitled 'Effective, Accountable and Responsive Local Government'.

The white paper states that the framework within which local authorities operate can be a barrier to effective governance. The paper therefore proposes to:-

- Introduce measures to encourage more people to put themselves forward for election.
- Support the role of non-executive councillors as democratic champions for their local areas.
- Extend the powers of councils to pass local laws. (This will end the Secretary of State's current role in confirming bye-laws). There will also be additional powers for councils to enforce bye-laws through fixed penalty notices.
- Legislate for stronger and more accountable local leadership by offering local authorities a choice of three executive models. These are:-
 - i) a directly elected Mayor
 - ii) a directly elected Executive
 - iii) an indirectly elected Leader

All with a four year term. There are proposals to allow authorities to adopt the Mayoral model after consultation with their communities but without the need for a referendum. In each model all executive powers would be vested in the Mayor or the Leader who would have responsibility for deciding how the powers should be discharged.

- Strengthen Overview and Scrutiny Committees to improve accountability.
- Give all local authorities freedom to opt for whole council elections and to move to single member wards.
- Create opportunities for improved local governance by giving councils an opportunity to seek unitary status or to adopt improved two tier models
- Establish a new locally based conduct regime.

It is this last bullet point which will be of particular interest to the Standards Committee. The white paper picks up on recommendations both in the former ODPM paper which was entitled "Standards of Conduct in English Local Government; The Future", the report of the committee on standards in public life, "Getting the balance right – implementing standards in public life", the report of the ODPM select committee on the role and effectiveness of the Standards Board for England and finally the recommendations of the Standards Board itself following their review and consultation exercise on the Code of Conduct for Members.

The white paper indicates that the government is proposing to give local Standards Committees the power to make initial assessments of misconduct allegations and promises that most investigations and decisions will be made at local level. The paper also indicates that the Members' Code of Conduct is to be amended and that these amendments will include changing the rules on personnel and prejudicial interests with a view to removing barriers so that Councillors can speak up on behalf of their constituents.

The paper also suggests that there will shortly be a Code of Conduct for employees.

Further reports will be submitted to the Standards Committee as these changes are introduced.

Recommended that the report be noted.

Appendix A

Standards Board for England Annual Conference.

October 15.10.2006 to 16.10.2006. ICC Birmingham.

Introduction

The first thing to say is that I found this to be an interesting and informative experience - despite horrendous travelling on Virgin Trains. It was useful to meet people from other authorities and to hear their experiences. A variety of people attended - monitoring officers, councillors, independent members and others. Some authorities sent several representatives. I don't know that we need to go that far, but I do think that it is right that Durham city is represented at gatherings such as this.

The conference was divided into plenary sessions and workshops and I will report on them in that order.

Plenary Sessions.

1. The first morning was taken up with various speakers. First up was the minister, Phil Woolas. I found him to be an impressive and straightforward speaker. His main theme was the need for all areas to have a healthy body politic and he sees robust standards of conduct as essential in underpinning that and as a part of political culture. He is anxious that politics is under threat from trivialisation and cynicism and made the point that we all have a responsibility to drive this out. He looked forward to the forthcoming Local Government White Paper without saying much about it except that it will be devolutionary in nature.

He announced that he has asked the Chairman, Sir Anthony Holland, to stay on until 2008 and he expressed his personal opposition to the notion of a majority of Standards Committee members being independents, seeing a vital role for local politicians.

2. We then heard from Patricia Hughes, Deputy Chair. She gave us a plethora of statistics and looked forward to the future role of the Standards Board itself. She sees it as a strategic body with a role of ensuring public confidence and which will only investigate what she described as "the vital few". I suppose we will have to wait and see what this means. In terms of devolution of complaints work to local level she believes that the numbers are manageable locally while accepting that

some authorities have large numbers to contend with. Her concern is to ensure consistency and balance across the country together with structures that avoid conflicts of interest. Legislation is planned for summer 2007 with a plan to be in place in 2008.

She also spoke about the revised code of conduct which she described as far-reaching and radical and which is aimed at adoption for May 2007. I have to say that a few sceptical voices were raised at this timetable.

3. We then had three speakers talking on the theme "What will an ethical environment look like?" One of the most interesting things about this was that the canine analogy of Professor Gerry Stoker was adopted by virtually every subsequent speaker I heard. He said that Standards committees can be described in one of three ways:

Lapdog - being politicised and disengaged

Watchdog - being reactive and concerned with rules and enforcement

Guide dog - being pro-active, giving guidance and well as enforcing and involvement in organisational processes

No prizes for guessing which is the favoured approach and we were invited to consider how we match up against this. He drew his conclusions from research that he had undertaken and emphasised the need for Standards Committees to demonstrate leadership.

Frances Done from the Audit Commission talked about how ethical governance is now a key success factor in their work. She drew attention to their web-based survey and their willingness to run workshops on specific issues. She went on to say that post 2008; ethical governance will be a major factor in assessing risk.

Next we had Barry Quirk, CE of Lewisham. His catchphrase was "Conduct is the conductor". My only notes on his session refer to his view of barriers to proper conduct namely, a lack of clarity, a failure in process and rewarding poor conduct.

4. In the afternoon we had a session reporting back the survey that took place earlier this year. Rather than go into it here, I have a summary if anyone is interested and in any event I'm sure the results will be coming out shortly.

5. Day 2 gave us short session with the title "When politics becomes personal - is Local Government the panacea?" and posed the question as to whether local regulation can work.

Gillian Beasley from Peterborough BC talked about a cause celebre that she had to deal with. Interesting but you will be able to read about it elsewhere. She does however have some interesting procedures in place which involve nipping potential problems in the bud before they have chance to develop into, for instance, unacceptable behaviour. Sir Peter Soulsby MP was very interesting and reminded us that governance is a minority sport. While devolution is definitely on the agenda he fears that the government will not be as courageous as he would like.

Workshops.

For each workshop session, there were nine running simultaneously so clearly, I missed much more than I attended. The workshops were also very large and the ones that worked best were those with a presentation format.

I particularly enjoyed hearing about Much Squabbling in the Marsh (!) which related the situation when a parish council completely broke down and the actions taken to get it back together and working again. The general view at the conference seemed to be that there are many more difficulties and investigations connected with parish councils than district or county organisations.

There was also an excellent presentation from the head of Legal Services and the head of Investigations. They gave us tour of various cases and sanctions imposed based around the four key areas of Disrepute, Disrespect, Confidentiality and Personal and Prejudicial Interest. This was the only session that explicitly mentioned the Livingstone case and that was to say that they awaited the full judgement of the High Court. Personally I have some concerns about what kind of precedent may be set here.

The other workshops consisted of sitting around in groups talking on various topics and were of less interest or use.

Finally

I was pleased to have the opportunity to go to this conference and feel rather more fired up than before I went.

Tina Naples

The connection

Thursday 2 November 2006 Issue 3 www.annualassembly.co.uk

Towards effective local regulation



Many delegates I spoke to at this year's Annual Assembly of Standards Committees commented on how far and how fast the standards agenda has moved over the last year. Half of all standards committees have now handled a local case, and there are increasingly proactive approaches to championing and upholding high standards locally.

Most importantly, awareness of the Code of Conduct is increasing and there is evidence of improved standards of behaviour. I would like to congratulate all of you for what you have achieved so far.

Much is now in place to support the increasingly locally owned and driven standards framework outlined by Phil Woolas MP in his document *Standards of Conduct in English Local Government: the Future*,

and reinforced in his keynote speech that opened our Fifth Annual Assembly.

Of course there is still much to do. Above all we need to work together to embed the revised Code of Conduct, which the Minister promised would soon be published for consultation. The Standards Board for England will produce guidance and training materials, and we urge monitoring officers and standards committees to ensure that councils adopt the revised Code quickly.

This means ensuring that training is put in place ready for the elections in May 2007. We will work with you on pilots to make local filtering a success in 2008.

A major theme of the Assembly was the importance of high standards of conduct and

behaviour in underpinning good governance, especially for leaders and chief executives living out and exemplifying the values of good governance. That includes ensuring that standards committees have the necessary capacity and support, and that monitoring officers are equipped to give clear and robust advice, recognising members' legitimate community advocacy roles.

I hope you enjoy this final newsletter which includes a look at some of the discussion that went on amongst delegates at this year's sessions, news from the Standards Board for England, a summary of plans for the revised Code of Conduct, and further pictures from this year's event.

Initial feedback on the Assembly has been very positive. Soon we shall be planning next year's event, and we are delighted by the large number of new volunteers wanting to join the 2007 steering committee. This group will be considering what went well at this year's event and what could be improved, and will help make next year's event just as useful and successful.

I look forward to seeing you there.

Sir Anthony Holland
Chair, the Standards Board for England

CONFERENCE ROUND-UP

This year's Annual Assembly featured a range of sessions, from facilitated exchange sessions to workshops and debates. These summaries give you a flavour of some of the delegate discussions that took place.

Implications of the revised Code and the future ethical environment

In these sessions, delegates discussed and debated the implications of the revised Code of Conduct, the local filter for complaints and the future ethical environment.

One theme that came up in the sessions was the need for members, both prospective and returning, to understand the Code of Conduct before taking office, with many delegates also stressing the need for guidance on the revised Code as soon as possible.

Monitoring officers were concerned about whether they would have the resources to help authorities handle changes, and the need for powers other than investigation – such as mediation – to resolve issues.

The need for guidance and resources to assist with the local filter was also emphasised.

Other issues raised were: recruiting enough independent members; collaboration between councils in regards to training; placing time limits on investigations so that delays do not occur; and the need for standards committees to lead on training and ethical standards, not just on dealing with breaches of the Code.

The Standards Board for England will be producing guidance and training materials on the revised Code when it comes into force, including a new DVD, and on other areas such as the local filter. We have called on the Department for Communities and Local Government (DCLG) to look into the resources issue and will continue to lobby on this, and encourage authorities to do the same.

How do you measure up?

Delegates looked at their authorities in the context of the BMG research during these sessions.

Issues that arose included the need for a proactive standards committee chair. The lack of independent member candidates, and the lack of diversity of independents was discussed, demonstrating the need for proactive recruitment. The need for public awareness of standards committees, and the role of the chair in raising this profile, was highlighted.

The issue of training was key, with delegates emphasising the need for training to be ongoing, suggesting that experienced members mentor new members. Collaboration on training between neighbouring authorities was also recommended. Opinion was divided in one session over whether monitoring officers should be legally trained. Some delegates called for training for members to be mandatory.

Tensions between independent and elected members were discussed. A formal support network for monitoring officers was suggested for sharing best ideas and practice.

Bridging the gap: knowledge, techniques and skills

Sessions on a variety of topics addressed the challenges of a revised Code and more locally focused system. Below is a snapshot of some delegates' discussions.

In the session *Investigations – in-house or out-house?* topics discussed included the need to consider carefully the reasons why an investigation should be outsourced. If it is outsourced, key points were to be prepared, choose your investigator with care, and make sure that the monitoring officer, or

someone appropriate, sees a draft report. There was discussion around the pros and cons of joint-working more generally, and the level of involvement of the standards committee chair in investigations.

Holding an effective hearing emphasised that preparation is key, and that the composition of standards committees is important. Delegates raised worries about time resources, the number of panel members, and the fact that members could be susceptible to persuasion.

Bridging the gap: awareness, development, wider debate

These sessions focused on bridging the gap between simply fulfilling statutory obligations and integrating ethical standards into the corporate governance framework. Below is a snapshot of a couple of these sessions.

In *An inclusive approach to towns and parishes*, discussion covered the need for members, particularly clerks, to be properly trained. Whether principal authority members should be able to help parish members was debated. The *Town and Parish Standard* newsletter was mentioned as a useful information tool.

Working proactively – the role of standards committees covered the need for standards committees to have terms of reference beyond their statutory obligations, the fact that the capability of standards committees varies widely, and how standards committees can measure the ethical temperature in their authority. Also discussed was raising the profile of standards committees within their council, visiting and monitoring parish and town councils, and the need for work programmes and for the regular updating of protocols and registers.

CONFERENCE PICTURES



What you thought

Thank you for all of your comments and feedback about this year's conference. Here's a selection of what you had to say about the Fifth Annual Assembly of Standards Committees:

- " Overall a useful and positive contribution to the future of local government. "*
- " Good conference as usual. Thank you. "*
- " Very nicely paced and timetabled with stimulating mix of plenary/workshop/breaks etc. "*
- " Slick, professional and generally very thought provoking. "*
- " The particular strength of the Assembly is arranging a programme which can appeal to and benefit the wide spectrum of people involved in the standards process and enable them to meet each other and discuss matters of mutual interest. "*
- " The conference is a 'master class' in organisation! The venue is ideal, staff and officers excellent. A very worthwhile event. "*
- " Thank you! It was my first Assembly and it has been very informative, interesting and insightful. "*
- " An excellent conference, a very diverse choice of topics. This will help me in my role as monitoring officer and my standards committee. "*
- " The present conference is still a very good training experience, even for delegates that have been before. "*

Conference materials online now

Presentations, handouts and speeches from the conference are available now from our dedicated Annual Assembly website. They are all under 'Session materials' in the Programme section of www.annualassembly.co.uk

New appointments to the Standards Board for England

Four new Board members have been appointed to the Standards Board by the Minister for Local Government, Phil Woolas. These new appointments will help to maintain the balanced proportionate representation of interests and experience central to the work of the Standards Board.

They include the first appointment of a politically independent, elected member, Councillor Shirley Flint. The other new members are Councillor Beatrice Fraenkel (Liberal Democrat), Councillor Mehboob Khan (Labour) and Councillor Sir Ron Watson CBE (Conservative).

Phil Woolas said: "I am very pleased that Shirley Flint, Beatrice Fraenkel, Mehboob Khan, and Sir Ron Watson are joining the Standards Board to represent local government interests. They will bring valuable experience and expertise to help the Board

develop a more locally-based conduct regime and to maintain high standards of conduct in local government."

The terms of the new Board members began on 23 October 2006 and will run for three years. Their biographies will be published shortly on the Standards Board's website, www.standardsboard.co.uk

There are seven other Standards Board members, including the chair, Sir Anthony Holland.

The Minister announced at this year's Annual Assembly that Sir Anthony had agreed to continue as chair of the Board until June 2008, saying that his knowledge and experience would be vital in guiding the Standards Board for England through both its relocation and the introduction of a new standards regime.

The Board consists of eleven members:

- Sir Anthony Holland (Chair)
- Patricia Hughes (Deputy chair)
- Cllr Shirley Flint
- Cllr Beatrice Fraenkel
- Paul Gott
- Elizabeth Hall
- Cllr Mehboob Khan
- Paul Sabapathy
- Prof Judy Simons
- Roger Taylor
- Cllr Sir Ron Watson

And the winner is...

Congratulations to the winners of our feedback prize draw, picked at random, who each receive a £20 book token. Thanks to all who completed their forms – your feedback is vital in planning future events.

Anne Dickens, Independent Member of Standards Committee, London Fire and Emergency Planning Authority

John Tradewell, Council Solicitor, Halton Borough Council

Dave Crowe, Independent Chair of Standards Committee, Dartford Borough Council

Councillor Ian Sams, Surrey Heath Borough Council

Doreen Porter, Head of Legal and Democratic Services, Worcester City Council

At the Fringe

This year's optional fringe events were run by a range of bodies from the local government family, covering topics of key interest to delegates.

Several delegates said that they had found the event by SOLACE (Society of Local Authority Chief Executives and Senior Managers) on *Leadership and governance and the Lyons Inquiry proposals* a really useful and interesting session. Discussion focused on a number of different areas, but was based around the key role of effective leadership and governance at all levels, particularly at local level as proposed by the Lyons Inquiry.

Issues highlighted at the event included the need for standards committees to provide local context and an understanding of the real issues in its particular area. Also discussed was the importance of participation – in particular the danger of stopping people with knowledge and understanding of the issues under debate from participating.

Many delegates who attended *Independent members gaining a voice*, the inaugural meeting of the Association of Independent Members of Standards Committees (AIMSce), said they saw it as an excellent way forward for the future.

THE SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

15–16 OCTOBER 2007, ICC, BIRMINGHAM

The revised Code: in summary

We thought it would be helpful to summarise the key points raised during the conference regarding the revised Code of Conduct.

The timescale for the introduction of the revised Code is decided upon by DCLG, however our best understanding of timings is:

1. **Next few weeks:** the Standards Board anticipates that the Code will be issued for consultation by the Department for Communities and Local Government in the next few weeks.
2. **End of December:** consultation should end.
3. **Late January/early February:** parliamentary approval is expected.
4. **May 2007:** revised Code of Conduct should come into effect. The intention is to allow for training to take place before this time, and the Standards Board is encouraging authorities to adopt the revised Code as soon as is practical, preferably at their annual meetings in May 2007.

Whilst the final content of the revised Code is the remit of DCLG, we anticipate that the main areas of change will be:

- a) the definition of personal interest
- b) the creation of a new category of interest called public service interest
- c) disclosure of confidential information in the public interest
- d) disrepute
- e) bullying
- f) abolition of the duty to report breaches of the Code by other members

The Standards Board will be providing guidance and training materials to help you navigate the revised Code when it comes into force.

In the meantime, please call the Standards Board enquiries line on 0845 078 8181 with any general queries about the Code of Conduct.

Roadshow events

The Standards Board is already preparing for our next events following the close of this year's Annual Assembly. We are planning to host a series of roadshows across the country in June 2007 to coincide with the proposed launch of the revised Code of Conduct and local elections results. The current proposals are to visit 12 cities across the country.

The focus of the roadshows will be on the revised Code as well as preparations for the proposed introduction of the local filter system for complaints in 2008. As in previous years the sessions will take the format of presentations and discussions, and delegates will be encouraged to contribute. Board members and the chief executive will also be on hand to answer any questions.

These roadshows will be aimed at members from local standards committees and monitoring officers. Details will be sent out nearer the time.

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

the Case Review number four

An analysis of local investigations and local decision appeals are just two of the topics explored in the fourth *Case Review*, a copy of which you will have received in your delegate bags at the Annual Assembly. Other topics include bullying, ethical standards officers' directions and some significant cases involving council leaders.

The publication provides a round-up of some of the most significant cases and decisions, emerging national trends and important lessons learnt so far.

If you would like an additional copy of

the *Case Review*, it is available for purchase at a cost of £15 per copy.

We also have a limited number of copies of the second and third *Case Reviews*, which examine: the role of members' private lives and disrepute; prejudicial interests and democracy; and confidentiality and the public interest. These publications, which are normally priced at £15 each, can be purchased together for £20.

To place an order call 0845 078 8181 or email publications@standardsboard.co.uk

CONTACTS

The Standards Board for England

First floor, Cottons Centre
Cottons Lane,
London
SE1 2QG

Telephone: 0845 078 8181

Minicom: 020 7378 5199

Fax: 020 7378 5001

Email:

enquiries@standardsboard.co.uk

Website:

www.standardsboard.co.uk