

**City of Durham**

At a Meeting of the **STANDARDS COMMITTEE** held in the Town Hall, Durham, on Tuesday, 16<sup>th</sup> January, 2007, at 5.30 p.m.

**Present:** Mr B.R.J. Ingleby (in the Chair)  
and Councillors Gibbon, McDonnell, Moderate, and Simpson (City Council Members)  
and Councillor C.W. Beswick (Parish Council Member)  
and Mr D. Hollingworth (Independent Member).

**442. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**443. MINUTES**

The Minutes of the Meeting held on 14<sup>th</sup> November, 2006, were confirmed as a correct record and signed by the Chairman.

**Report of Monitoring Officer**

**444. ETHICAL GOVERNANCE AUDIT**

The responses to the Audit had now been collated and forwarded to Professor Lawton for his comments. These would be reported when they were received.

**Resolved:** That the report be noted.

**445. APPOINTMENT OF PARISH REPRESENTATIVE TO THE STANDARDS COMMITTEE**

The appointment panel meeting fixed for December had had to be re-arranged when the date proved inconvenient for a number of the applicants. The meeting would now take place on 26<sup>th</sup> January, 2007, when it was hoped an appointment would be made.

**Resolved:** That the report be noted.

**446. EXTRAORDINARY MEETING OF THE STANDARDS COMMITTEE**

A meeting of the Standards Committee had been fixed for Monday 19<sup>th</sup> February, 2007, at 10.00 a.m. for a local hearing into a complaint made to the Standards Board for England.

The papers for this hearing would be forwarded to Members of the Standards Committee nearer to the date of this meeting.

**Resolved:** That the report be noted.

**447. COMPLAINTS TO THE STANDARDS BOARD FOR ENGLAND**

**(a) SBE16769.06 – 16772.06**

The Standards Board for England recently considered a number of complaints referred to the Board by a member of the public and making allegations about various members of Pitlington Parish Council.

The Standards Board had now issued its decision notices in relation to these complaints.

The first allegation referred to a meeting of the Parish Council on 19<sup>th</sup> September, 2006, when it was alleged a Councillor had accused the complainant and another Member of the Council of collusion. The Board took the view that this allegation could potentially be considered as failure to treat others with respect and noted that as the complainant was in attendance at the Parish Council meeting (as a member of the public) she would not have had access to the same public platform as the Member complained about, from which to defend herself from the accusation. The Board therefore considered that the alleged conduct did disclose a potential breach of the Code of Conduct but determined not to refer the matter to an Ethical Standards Officer for investigation on the basis that it was not considered that the alleged conduct was serious enough to justify an investigation.

The second complaint alleged a failure on the part of a Parish Councillor to display the minutes of the Parish Council meeting on the Parish Notice Board at Littleton. The Board took the view that this did not amount to unlawful withholding of information from the public and considered that as the information could be accessed from another source in Low Pittington (which admittedly was less convenient) it satisfied the Council's requirement to give public notice of its meetings. There was a second allegation that the same councillor had spoken to the complainant in an aggressive and disrespectful manner on two occasions, the first at a Parish Council meeting in July, 2004, and the second occasion at a meeting in September, 2006.

The Board took the view that no specific detail of the comment in July, 2004, had been given, and that a considerable period of time had elapsed since the alleged incident. The Board thought that the alleged comments in September, 2006, did disclose a potential breach of the Code of Conduct and again noted that as the complainant was in attendance at the Council meeting as a member of the public, she would not have access to the same platform as the Councillor to defend herself. Nevertheless it was not considered that the alleged conduct was serious enough to justify an investigation and so the decision of the Board was not to refer the allegation to an Ethical Standards Officer for investigation.

The third complaint made a number of allegations alleging the failure of the Vice-Chairman of the Parish Council to conduct Council meetings properly in the Chair's absence. There were a number of issues involved in this complaint including an allegation that minutes of Council meetings had not been signed correctly, allegations of alleged bullying and failing to intervene when unfounded accusations against the complainant were made and the premature closing of the meeting.

The Board took the view that some of the matters complained about were matters of Council business rather than issues to be addressed under the Code of Conduct. It was felt that there was a potential failure to treat the complainant with respect but again, because the alleged conduct appeared to be of a relatively minor nature, and an isolated incident, it was decided that the allegation should not be referred to an Ethical Standards Officer for investigation.

The final complaint to the Standards Board was against the Chairman of the Parish Council and again made a number of allegations alleging breach of the Code of Conduct by bringing the Parish Council into disrepute. Some of these allegations involved failure to read out letters to the Council at Parish Council meetings and acting in an inappropriate and disrespectful manner towards members and the general public as well as failing to offer appropriate guidance to the Parish Council and addressing the Parish Council in an "aggressive, agitated, bullying and most disrespectful manner".

Again, the decision of the Board was that some of the matters complained of related to the business practices of the Parish Council rather than the ethical conduct of an individual Member.

Failure to stop fellow Members of the Council acting disrespectfully was not considered to constitute a breach of the Code of Conduct and the Board made the point that this allegation related more to the capability of the individual Councillor as a chairman rather than ethical conduct, pointing out that the Standards Board did not have the remit to regulate the quality of members work. The allegations of aggressive, disrespectful and bullying conduct were considered to disclose potential failures to comply with the Code of Conduct but the Board noted that a higher threshold must be crossed for disrespectful behaviour from one member to another and it was not considered that the threshold had been reached in the particular instance. The decision therefore, was not to refer the allegation to an Ethical Standards Officer for investigation.

At the request of the complainant the Standards Board's Chief Executive could review and change a decision not to refer an allegation for investigation if he was persuaded the decision was unreasonable in law. The complainant had a period of 30 days in which to make application for review.

To date, no such review had been requested.

**Resolved:** That the report be noted.

**(b) SBE16961.06**

The Standards Board for England had also recently been considering a complaint from the MP concerning the alleged conduct of the Leader of the Council. The complaint arose from a news item published on the City Council's web site which the MP considered attacked her role. A separate complaint was also made about the City Council publication, Durham City News, in which it was said that opposition councillors rarely featured.

The decision of the Standards Board was not to refer the matter for investigation. The Board had reiterated that general allegations relating to the tenor, content and style of the City Council's newsletter did not fall within its jurisdiction. Similarly, the Standards Board did not consider that a news item would generally fall within their remit. This was a matter for the Authority itself and in relation to specific comments attributed to the Leader it was noted that these were made in response to comments made by the MP which were critical of the City Council. The Board took the view that a robust defence of the Council was one of the functions of a leader and as such did not constitute potential misuse of the resources of the City Council.

At the request of the complainant the Standards Board's Chief Executive could review and change a decision not to refer an allegation for investigation if he was persuaded the decision was unreasonable in law. The complainant had a period of 30 days in which to make application for review.

To date, no such review had been requested.

**Resolved:** That the report be noted.

**448. STANDARDS BOARD FOR ENGLAND – BULLETIN 31**

A copy of the latest Bulletin from the Standards Board for England was circulated for Members' information.

**449. GOING LOCAL – INVESTIGATIONS & HEARINGS**

The Committee viewed the Standards Board for England DVD “Going Local – Investigations & Hearings”.

**450. NEXT MEETING**

The Chairman reported that he would be unable to attend the next ordinary Meeting of the Standards Committee (on 13<sup>th</sup> March, 2007) because of holiday commitments. It was agreed that the Meeting should be cancelled and re-arranged for Tuesday, 20<sup>th</sup> March, 2007.

The meeting terminated at 6.40 p.m.

Chairman

## City of Durham

At a Special Meeting of the **STANDARDS COMMITTEE** held in the Town Hall, Durham, on Monday 19<sup>th</sup> February 2007 at 10.00 a.m.

**Present:** Mr B.R.J. Ingleby (in the Chair)  
and Councillors Gibbon, Moderate, and Simpson (City Council Members),  
and Councillor C.W. Beswick (Parish Council Member)  
and Mr. D Hollingworth (Independent Member)

**Also Present:** Councillor Marsden, Ms Randle of Steel & Ramash Solicitors, Mrs L. Blackie (Monitoring Officer), Mrs C. Greenlay (Deputy Monitoring Officer), Mrs C. Prest, Mr & Mrs Barber, and Mr M. Summers.

### 498. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor McDonnell.

### 499. DECLARATIONS OF INTEREST

Councillors Gibbon and Simpson both declared an interest in the business to be discussed and excused themselves from sitting as members of the panel.

### 500. COMPLAINT TO THE STANDARDS BOARD FOR ENGLAND – REF: SBE 15697.06

In the light of members of the Public and Press attending the meeting, the Committee first considered whether the press and public should be excluded from all or part of the hearing. Having consulted the parties to the hearing it was:-

**Resolved:** That the press and public should not be excused from the hearing but that they should only receive an anonymised version of the investigating officers report to protect confidential information, and that the parties to the hearing should not disclose any confidential material during the progress of the hearing.

Mr Barber had complained to the Standards Board for England, alleging that Councillor Marsden, a member of the City Council's Appeals Panel, had failed to declare a prejudicial interest at a meeting of the Appeals Panel held on 26<sup>th</sup> May, 2006, and thereby breached the Council's Code of Conduct.

The complaint was referred by the Standards Board to the City Council for a local investigation. The investigation was carried out by Mrs Catherine Prest, former Monitoring Officer of Wear Valley District Council. She found that there was evidence that Councillor Marsden had failed to comply with the Council Code of Conduct.

The investigating officer's findings were considered by the Standards Committee who heard in person from Mrs Prest, Councillor Gibbon, Mrs Blackie, Councillor Marsden and Ms Randle. In accordance with the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004, and it was:-

**Resolved:** (i) That Councillor Marsden had not failed to comply with the City Council's Code of Conduct.

(ii) That the Council's Code of Conduct should be reviewed.

The meeting terminated at 12.55 p.m.

Chairman



## City of Durham

At a Special Meeting of the **STANDARDS COMMITTEE** held in the Town Hall, Durham, on Wednesday, 28<sup>th</sup> February, 2007, at 5.30 p.m.

**Present:** Mrs T. Naples (in the Chair)  
and Councillors McDonnell and Moderate (City Council Members)  
and Mr D. Hollingworth (Independent Member).

### **537. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gibbon and Simpson, Parish Councillor Beswick and MR B.R.J. Ingleby.

#### **Report of Monitoring Officer**

### **538. REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS**

The Government published at the end of January, 2007, a consultation paper seeking views on their draft revised Model Code of Conduct for local authority members. Responses were requested by not later than 9<sup>th</sup> March, 2007. The intention of the amendments was to make the Code more effective and proportionate, with a move towards a more locally based decision making regime, of the investigation and determination of all but the most serious of misconduct allegations. The role of the Standards Board for England in future would be at the centre of the revised regime, with a new strategic, regulatory role, to ensure consistency of standards.

A copy of the consultation paper containing a draft of the Statutory Instrument to amend the Code of Conduct was circulated, and the Monitoring Officer highlighted the key points of the Order.

**Resolved:** That the City Council's response to the Consultation Paper, as discussed, be forwarded to the Department for Communities and Local Government.

The meeting terminated at 6.35 p.m.

Chairman





**CITY OF DURHAM**

**STANDARDS COMMITTEE  
20 March 2007**

**REPORT OF MONITORING OFFICER**

**1. Revised Model Code of Conduct for Local Authority Members**

I attach for Members' information a copy of the response (App A) I sent to the Department for Communities and Local Government following the extra ordinary meeting of the Standards Committee on the 28 February 2007 and the discussion on the consultation paper with reference to the revised Code of Conduct.

Recommended that the report be noted.

**2. Roadshow 2007**

The Standards Board for England is arranging its 2007 roadshow which will be held in various locations across the country. We have been invited to send four delegates to the Newcastle upon Tyne venue and this roadshow will take place on the 12 June 2007. Places have been reserved and a final decision on attendees can be taken after Annual Council on the 23 May 2007 when the appointments to next years Standards Committee are made.

Recommended that the report be noted.

**3. Ethical Governance Audit 2006**

The response to last years Ethical Governance Audit was somewhat disappointing. We received 16 replies from City Council Members, 20 from staff and 3 from parish councils making a total response of 39 out of 205 questionnaires despatched. The responses were forwarded to Alan Lawton formerly of Teesside University and now working for Inlogov at Birmingham University. He had kindly agreed to carry out a validation exercise and I am attaching as App B Professor Lawton's comments on the audit.

Recommended that the report be noted.

**4. BMG Research**

The Standards Board for England have commissioned BMG Research to carry out research in relation to satisfaction with advice and guidance. Questionnaires were forwarded for completion respectively by myself as Monitoring Officer, the Chair of the Standards Committee, the two other independent members of the Standards Committee and in addition there were three further copies of the questionnaire for none Standards Committee members i.e. one Cabinet member and two Scrutiny members. The closing date for submission of the returns was the 2 March 2007.

Responses will not be linked to individual members or authorities. The intention of the questionnaire is solely for the purpose of enabling analysis and comment on any geographical spread and difference in response rates.

When the outcome of the research is known I will report the findings to the Standards Committee.

Recommended that the report be noted.

5. **Bulletin 32**

Attached for information

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Lesley Blackie LL.B.  
**Director of Legal & Administration Services**

Our Ref LGB/ML

2 March 2007

FAO William Tandoh  
Local Democracy Directorate  
Department of Communities  
& Local Government  
5/G10 Eland House  
Bressenden Place  
London SW1E 5DU

Dear Mr Tandoh

### **A Revised Model Code of Conduct for Local Authority Members**

The consultation paper on the revised model Code of Conduct for Local Authority Members, was considered by the City Council's Standards Committee at its meeting on 28 February 2007.

Before I set out the comments made by members of the Standards Committee, I would mention that I also circulated details of the consultation paper to the 15 parish councils within the City Council's district and I received a reply from the Clerk to Brandon and Byshottles Parish Council. The only comment which her parish council wished to make on the proposed amendments was in relation to paragraph 7(c). Members of the parish felt that, particularly as the parish had six electoral wards covering a wide area, the definition of a personal interest should not apply in respect of the council's whole area but instead to the ward affected by a particular matter.

On a general point the parish also advised me that in order to ensure gender neutrality of language members suggested using "they" and "their" instead of "he" or "she", "him" or "her".

The City Council's comments from its Standards Committee are as follows:-

1. **Definitions** – The Code should make clear that it applies to information meetings such as briefings and meetings with officers as well as more formal meetings, on the basis that it is just as important members declare personal interests and withdraw from prejudicial interests in those informal meetings as it is for more formal ones.
2. Members noted the comments made by Bevan Britten in relation to this paragraph and agreed with the suggestion that the requirement should be to comply with the Code of Conduct rather than simply observe it. Members also noted the comments recommending

an extension to cover instances when a Councillor was purporting to conduct the business of the authority. Members were of the view that the test should be one of reasonableness i.e. when a member of the public thought a person was acting as a Councillor if it was reasonable to do so, then the requirements of the Code should apply.

3. **Paragraph 3** – Bevan Britten have commented that the Code should be further amended to ensure that when disclosure is made to a third party this should be on the same terms as to disclosure as are applied to the Councillor himself/herself. Members thought this was appropriate and endorsed that comment.
4. **Paragraph 4** - The Standards Committee considered that it might be sensible to make reference to misconduct rather than conduct.
5. **Paragraph 7** – There was support for the view expressed by one commentator that an interest shared with the majority of the inhabitants of a member’s ward should remain a personal interest, but should not constitute a prejudicial interest.
6. **Paragraph 8** – We have recently had a local hearing which was concerned with an allegation of showing disfavour to the complainant. This case was very much in members’ minds when the Standards Committee considered paragraph 8 and in particular, the criticism of some commentators that the Code fails to deal with the issue of an “enemy” as opposed to a friend.
7. **Paragraph 12** – The Standards Committee supported the comment made by the Association of Council Secretaries and Solicitors that there should be an addition to this paragraph which requires the Monitoring Officer, so far as possible, to ensure that registers of members’ interests, gifts and hospitality are kept reasonably updated and freely available to members of the public.
8. **Paragraph 13** – Members of the Standards Committee were also supportive of the view of ACSeS that the requirement on a Councillor should merely be to notify the Monitoring Officer, with the obligation then transferred to the Monitoring Officer to register the information and make the register available for inspection. The issue of sensitive information could then be left to the Monitoring Officer’s discretion so that, where appropriate, it might not need to be put on the register or made public.

In relation to the specific questions which the consultation paper asks I have endeavoured to answer these below, in reliance on the general discussion at the Standard Committee meeting.

**Question 1**

Yes, but there is a need to extend the restriction to third party disclosures.

**Question 2**

Yes

**Question 3**

Members of the Standards Committee did not feel sufficiently competent to comment on the Code of Recommended Practice on local authority publicity.

**Question 4**

Yes

**Question 5**

No – see the comment above in relation to “enemies”.

**Question 6**

No

**Question 7**

Yes

**Question 8**

Please see the comment from Brandon & Byshottles Parish Council above

Yours sincerely

**Lesley G Blackie**

Director of Legal and  
Administration Services



## **CITY OF DURHAM COUNCIL**

### **Standards Committee** **Ethical Governance Audit- October 2006**

#### **(i) Members' Responses**

The responses to the questionnaire indicate that the members have a good understanding of the local government ethics agenda and believe that the standards of conduct in Durham are generally high. Their understanding of issues that do not appear to be related to the ethics agenda is weaker. For example, a small number in their response to Q6, but more obviously the responses to Qs 9,10,12. This, I suggest, is not unusual. Members in a sense, 'know what they need to know' and it is difficult linking the ethics agenda into wider organisational issues that might have an ethics dimension to them. Clearly it will be appropriate to link ethics into the wider corporate governance issues and ensure that ethics is not seen as a 'stand alone' item that exists independently of other issues within the council.

#### **(ii) Staff Responses**

The level of knowledge and understanding amongst staff as displayed in the responses to the questionnaire is disappointing, but probably not surprising. If the government does, eventually, deliver an officers' code then awareness will be raised. However, it is certainly the case in other authorities that the further down the organisation the less is known of the ethics agenda. At the same time, it would be unrealistic to expect more junior members of staff to have knowledge of the role of, for example, The Standards Committee. The problem, I think, is if senior officers appear to have little understanding of the ethics agenda. It is not clear from the questionnaire what level of officer responded.

There is a high level of 'Don't know/not applicable' to Qs 1, 4, 8, 17, 18, 19, 21, indicating that general ethics awareness training might be appropriate for officers. Much of the focus is, inevitably, on members, but even in areas that one might expect officers to have knowledge eg values, recruitment, equal opportunities, etc there is a minority that appear to demonstrate little knowledge.

There is an issue of communication, an issue which is common to most Standards Committees in my experience. I believe that it was raised at the Annual Standards Board Conference in October 2006 so there may be some guidance available. In North Yorkshire we are aware, as a Standards Committee, that we need to do more to publicise our role and activities both within the authority as a whole and outside to key stakeholders, including the public.

#### **(iii) Other responses**

Although a limited response, those that did respond demonstrated a good understanding of most of the areas, which is encouraging. It is difficult to make any suggestions given

the size of the response, other than to include the parishes in training events and Standards Committee communications, which I am sure that you do already.

**(iv) Conclusions**

I seem to remember that the issues of communication, officer awareness and raising the profile of the Standards Committee were raised after the last audit. I think that these issues take time to deal with and are part of an ongoing agenda. Good luck in responding to the new local responsibilities that are coming, increasingly, our way.

23<sup>rd</sup> January 2007

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## 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/](http://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.

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**“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.”**

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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](http://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.

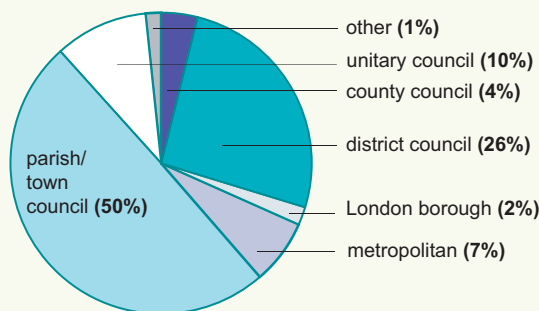
Taken together we consider these provisions to mean that the member is bound by whichever Code currently applies at the authority and, therefore, there is no need to sign another declaration when the revised Code is adopted.

## Referral and investigation statistics

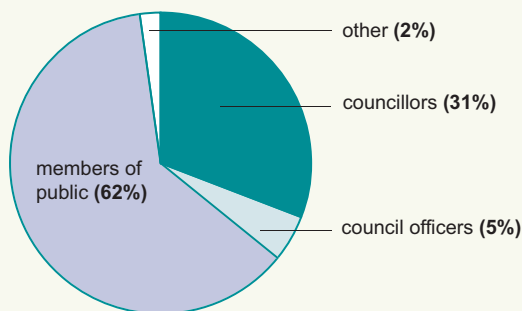
The Standards Board for England received 2,498 allegations between 1 April and 31 December 2006, compared to 2,949 during the same period in 2005.

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

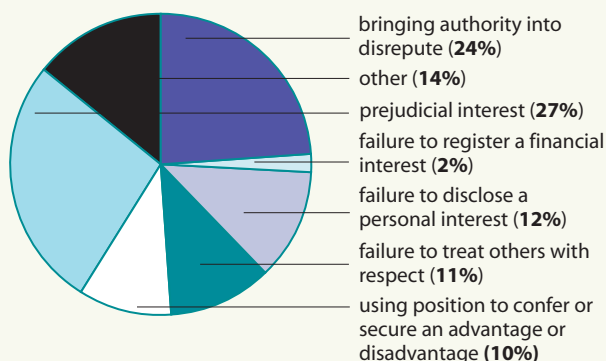
### Authority of subject member in allegations referred for investigation



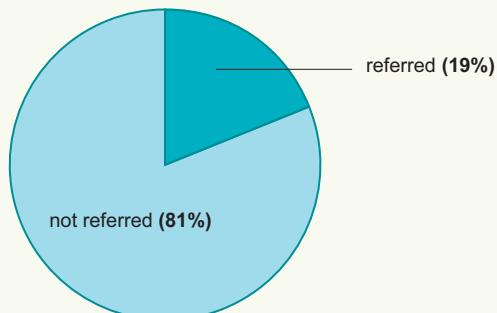
### Source of allegations received



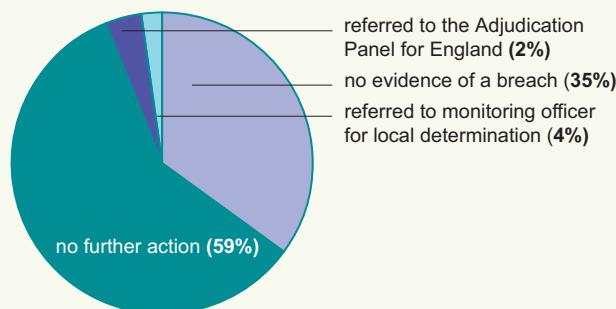
### Nature of allegations referred for investigation



### 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

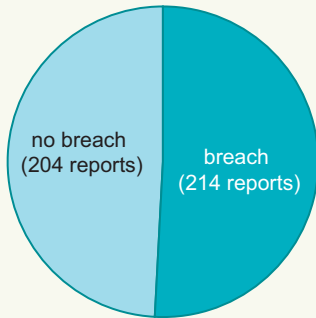
The Annual Assembly is the leading conference on issues concerning standards committees. Booking details will be sent to all authorities in March.

## Local investigation statistics

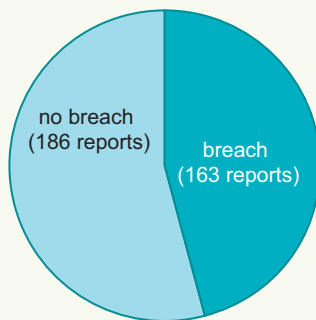
Of all cases referred since November 2004 for local investigation we have received a total of 418 reports — please see below for a statistical breakdown of these cases.

(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](mailto: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](mailto: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](http://www.standardsboard.co.uk)