

City of Durham

At a Meeting of the **STANDARDS COMMITTEE** held in the Gala Theatre, Durham, on Tuesday, 20th March, 2007, at 5.30 p.m.

Present: Mr B.R.J. Ingleby (in the Chair)
and Councillors Moderate, and Simpson (City Council Members)
and Councillors J.S. Anderson and C.W. Beswick (Parish Council Members)
and Mr D. Hollingworth and Mrs T. Naples (Independent Members).

546. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gibbon and McDonnell.

547. MINUTES

The Minutes of the Meetings held on 16th January, 2007, 19th February, 2007, and 28th February, 2007, were confirmed as a correct record and signed by the Chairman, subject only to an amendment to the Minutes of the Meeting on 19th February, 2007, recording the tendered apologies of Mrs. Naples.

Report of Monitoring Officer

548. REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS

At the Extraordinary Meeting of the Standards Committee held on 28th February, 2007, discussions had taken place on the Consultation Paper, with reference to the revised Code of Conduct.

The Monitoring Officer had responded to the Department for Communities and Local Government, and a copy of her response was circulated for Members' information.

Resolved: That the report be noted.

549. ROADSHOW 2007

The Standards Board for England was arranging its 2007 roadshow which would be held in various locations across the country. The Council had been invited to send four delegates to the Newcastle-upon-Tyne venue. This roadshow would be held on 12th June, 2007. Places had been reserved and a final decision on attendees could be taken after Annual Council on 23rd May, 2007, when the appointments to next years Standards Committee were made.

Resolved: That the report be noted.

550. ETHICAL GOVERNANCE AUDIT 2006

The response to last years Ethical Governance Audit was somewhat disappointing. Sixteen replies were received from City Council Members, twenty from staff, and three from parish councils, making a total response of 39 out of 205 questionnaires dispatched. 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 his comments on the Audit were circulated.

Resolved: (i) That the report be noted.

(ii) That governance training be arranged for Members, as part of the induction process following the Election, and for Senior Officers.

551. BMG RESEARCH

The Standards Board for England had commissioned BMG Research to carry out research in relation to satisfaction with advice and guidance. Questionnaires were forwarded respectively to the Monitoring Officer, the Chair of the Standards Committee and the two other independent members of the Standards Committee. In addition, there were three further copies of the questionnaire for non-Standards Committee Members i.e. one Cabinet Members and two Scrutiny Members. The closing date for submissions of the returns was 2nd March, 2007.

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

When the outcome of the research was known, the findings would be reported to the Standards Committee.

Resolved: That the report be noted.

552. STANDARDS BOARD FOR ENGLAND – BULLETIN 32

Copies of the latest bulletin from the Standards Board for England were circulated for Members' information.

Members noted that this year's Annual Assembly was to take place on the 15th/16th October, 2007, at the ICC Birmingham.

Resolved: That the City Council should be requested to authorise the attendance of one Member of the Standards Committee at the event.

The meeting terminated at 6.05 p.m.

Chairman

CITY OF DURHAM

STANDARDS COMMITTEE

11 June 2007

REPORT OF MONITORING OFFICER

1. Appointment of Parish Representative

Former Parish Councillor Colin Beswick did not retain his seat on Brandon and Byshottles Parish Council at the local election on the 3 May 2007.

In the circumstances he is tendering his resignation as a parish representative on the Standards Committee.

Recommended: that the parish councils be asked for their nominations to replace former Councillor Beswick.

2. Roadshow 2007

The Standards Board for England is holding a roadshow in Newcastle upon Tyne on the 12 June 2007. I reported to the last meeting of the Standards Committee that I had provisionally reserved 4 places for that event. The venue will be the Assembly Rooms in Newcastle and the programme for the roadshow is attached as Appendix A.

Instructions are requested on attendance to the roadshow.

3. Training Event for Members

Sedgefield Borough Council have organised a training event on standards issues to be presented by Mr Peter Keith Lucas of Bevan Brittan Solicitors on Wednesday 27 June 2007 in the Clevesferye Suite at Ferryhill Leisure Centre, from 10.00 am to 4.00 pm.

The event will give members an opportunity to take part in a mock up of the initial stage of an investigation, involving small groups acting as a Standards Committee who will evaluate complaints and decide whether to conduct an investigation. The groups will then discuss why each complaint was or was not worth investigating and cost implications of the different decisions will be demonstrated.

The event will also incorporate a discussion on the revised Members Code of Conduct.

I have obtained authorisation from the City Council to send up to 5 persons to the training session. This is particularly appropriate for members who have not had an opportunity of taking part in formal training on ethical governance issues, previously and is of specific benefit to new members of the Standards Committee.

Members' instructions are requested.

4. Correspondence from the Standards Board

A letter dated 23 May 2007 addressed to all Leaders of local authorities and copied for Chief Executives and Monitoring Officers has been sent out by the Standards Board for England and a copy is attached as Appendix B. The letter urges early adoption of the new Code of Member Conduct and makes a number of points about support for the Standards Committee and Monitoring officer.

Recommended that the correspondence be noted.

5. Complaints to the Standards Board for England

(1) I have recently been notified by the Standards Board for England of a number of recent decisions taken by the Board.

a) SBE 17785.07

An allegation had been made by a Councillor of Pittington Parish Council that the Chairman of the Parish Council had breached the Code of Conduct as a result of remarks made during a meeting of the parish council on the 20 February 2007.

The comments in question were concerned firstly with the accommodation needs of gypsies and travellers, secondly with a motion by the complainant for the reinstatement of the public participation session at council meetings and thirdly with remarks allegedly made by the Chairman that "the parish council will be better served by councillors who lived in the parish".

The decision of the Standards Board was that the allegations should not be referred to an ethical standards officer for investigation. Having taken account of the available information, the Standards Board did not believe that a potential breach of the Code of Conduct was disclosed.

In relation to the alleged comments concerning gypsies and travellers the Board said that the complainant had not provided specific detail of this and in the absence of such detail the allegation was not sufficiently substantiated.

In relation to the alleged sarcastic remark of the Chairman following the motion of the complainant to have the public participation session at parish council meetings reinstated, the Board took the view that the Chairman was entitled to express his views on that motion.

Finally in relation to the alleged comments about the complainant not living in the parish, the Board recognised that these alleged comments were personally critical of the complainant, but would fall within the realm of legitimate political debate. As the comments were made during the course of a council meeting at which the complainant was present, the Board felt that the complainant had the same access to a public platform as the Chairman, in which to respond to any allegations.

b) SBE 17786.07

The Standards Board had also received a complaint from the same member of Pittington Parish Council concerning the alleged conduct of the Vice Chairman.

The first allegation was similar to part of the allegation made in complaint SBE 17785.07 and concerns the purported action of the Vice Chairman in seconding comments made by the Chairman about the complainant no longer living in the parish. It was alleged that in seconding the motion the Vice Chairman had made an abusive, unnecessary and unprovoked personal and political attack on the complainant.

It was also alleged that at the same meeting the Vice Chairman had read out a list of parish council achievements and had made disparaging comments in

relation to a political leaflet issued by the complainants party which it was allegedly said, was full of lies and brought the parish council into disrepute.

The Standards Board's decision was that the allegations should not be referred to an ethical standards officer for investigation. The Board, having taken account of the available information, did not believe that a potential breach of the Code of Conduct was disclosed.

The Board said that in supporting a fellow members motion, the Vice Chairman did not commit a potential breach of the Code of Conduct. This would fall within the realm of legitimate political debate.

The expression of different political views and criticism of the public views of opposing political parties, was considered to be a regular part of the cut and thrust of local politics. The Board acknowledged that members would frequently use council meetings to indulge in political point scoring. It was felt that the vice Chairman's comments had been made in a similar vein and the Board noted also that the complainant had access to the same public platform from which to respond to criticism.

c) SBE 18240.07 to SBE 18252.07

I have recently received from the Standards Board for England decision notices in relation to 12 complaints which had been lodged by the same individual against members of West Rainton Parish Council.

In all 12 cases the decision of the Standards Board has been that it has jurisdiction only to deal with the conduct of individual members of local authorities and cannot investigate the adequacy of an authority's administrative procedures, minutes of meetings or the merits of particular decisions taken by the authority. It has been noted that the complainants concerns over access to information have been raised with the Information Commissioner and the Standards Board feels that in the circumstances it is considered that this is the appropriate body for dealing with such matters. The conclusion is therefore that there is no information to support the view that the councillors and former councillors who were complained about had potentially failed to comply with the Code of Conduct. The allegations therefore are not being referred to an ethical standards officer for investigation and there have been no findings of fact. The complainant does have the option of asking the Standards Board to review its decision if he considers it is unreasonable in law; i.e. if the decision is allegedly flawed because of the irregular way in which the allegation was processed or because the judgment is irrational on the reported facts. At the time of writing the report no request had been made for a review.

For members' information the complainants concerns related to issues with the parish council over a period of 18 months. The complainant had sought to acquire an additional burial plot at the local cemetery, to relocate a yew tree adjacent to his mother's grave and to erect a headstone. Because the parish council had taken a policy decision not to sell plots in the cemetery his request was refused. The complainant felt that the policy was unlawful and contradictory. He complained that the various members against whom allegations were made had

- failed to treat him with respect,
- had discriminated against him and treated him unfairly;

- had revealed information given in confidence or had prevented him from accessing information to which he was entitled,
- had failed to report the misconduct of other members,
- had failed to reveal a personal interest,
- had used their position to the complainants disadvantage,
- had failed to provide adequate training for the parish clerk,
- had damaged the reputation of their office and authority,
- had failed to register financial or other interests and had misused the parish council's resources,
- had taken part in a meeting where the interest was so significant it would have been likely to affect their judgment
- had implemented unlawful policies
- had failed to have regard to various legislation
- had failed to attend various meetings, seminars and training sessions
- and had failed to hold the Chairman to account

In addition the complainant had alleged that the parish council itself had

- failed to allow him to challenge the burials policy,
- failed to follow proper procedures,
- failed to hold proper meetings and had taken unlawful decisions
- had been obstructive and demonstrated evasive behaviour,
- had made decisions in camera and failed to keep proper records
- had failed to comply with standing orders
- had failed to comply with the Freedom of Information Act and had restricted the complainants access in contacting the parish council

Recommended that the report be noted.

(2) SBE 14399.06

In March 2006 the Standards Board for England received a complaint from a parish councillor at Pitlington Parish Council, alleging that the Chairman had breached the Code of Conduct and had acted towards her in a rude unpleasant and hostile manner. The Standards Board decided to refer the allegation to an ethical standards officer.

The decision of the ethical standards officer was to issue a direction, requiring a process of mediation between the members of Pitlington Parish Council and for appropriate training to be arranged. It was felt that this direction would address the root causes of the problems in the parish council, and would improve the understanding of council members of council procedures and correct conduct in meetings, as well as improving chairmanship skills.

On receipt of the ethical standards officer's direction, I appointed a mediator who initially met the complainant and the Chairman of the parish council separately. Neither councillor was prepared to take part in further mediation, and, particularly neither was prepared to participate in a joint session, so although the initial meetings brought about some improvement in the relationship between the Chairman and the complainant, the mediation process faltered. The ethical standards officer requested a follow up mediation meeting when the lack of progress was reported to her and at that stage the complainant agreed, albeit reluctantly, to participate, but the Chairman was not prepared to attend a follow

up session. In the circumstances the mediator felt that there was nothing further to be achieved.

So far as training is concerned, a training course comprising six modules in three groups was identified as appropriate chairmanship training and a provisional booking was made on behalf of the parish council Chairman. He did not attend the first session, claiming insufficient notice and the wish to have the matter of fees considered by the parish council before hand. He then indicated he would be unable to attend the second session because of holiday commitments.

Regrettably the organisers had to cancel further modules because of insufficient interest from parish councils in the run up to the local elections in May.

There was however one successful outcome of the direction in that the parish council as a whole attended a training session entitled "What's on the Agenda" organised by the County Durham Association of Local Councils. Although I have received no feedback from those attending that training event I can only assume that it was of benefit to all members of the parish council. The Clerk to the parish council advised me that, in conjunction with the executive officer of the County Durham Association of Local Councils he had ordered a supply of "The Councillor's Guide" for distribution amongst his members and it was felt that this would aid the knowledge of the members of the parish council and provide examples of good practice.

The outcome of the direction has been largely disappointing although the benefit of the "What's on the Agenda" training is acknowledged. The Standards Board for England has been notified of the outcome and I am attaching a copy of my report for members' information (Appendix C). The view of the Standards Board is that if there are further complaints in relation to this parish council, the information provided in my report will be taken into account as to whether allegations should be referred for investigation.

The outcome of the direction was also advertised in the local press on Thursday 10 May 2007 in response to a request from the Standards Board.

Recommended that the report be noted.

(3) SBE 18323.07

The Standards Board for England has recently received a complaint alleging a breach of the Code of Conduct by a member of the City Council. The initial decision of the Standards Board was to refer the allegation to an ethical standards officer for investigation and the ethical standards officer has determined to refer the matter to myself for a local investigation.

At this stage I am unable to provide members of the Standards Committee with any details of the allegation. I may simply notify you that an investigation is about to be carried out. This confidentiality is intended to avoid the perception of prejudice both in my investigation and also in the subsequent Standards Committee determination.

Recommended that the report be noted.

6. Local Government and Public Involvement in Health Bill

The Local Government and Public Involvement in Health Bill is currently going through its parliamentary stages. It is expected to become law in the early autumn. The bill is extensive and covers structural and boundary changes, new electoral arrangements, reorganisation of local authorities and other matters but of interest to the Standards Committee is the chapter on the conduct of local authority members.

This note outlines for the information of the Standards Committee the provisions currently in the draft bill though it should be noted that these provisions could be changed before the bill becomes law.

1. The bill proposes amendments to the present system of considering complaints of breaches of the Code of Conduct. The amended provisions propose a written allegation to be made to the Standards Committee of the relevant authority rather than to the Standards Board for England.

When a Standards Committee receives such an allegation the committee must decide whether to refer the allegation to the Monitoring Officer for an investigation, refer the allegation to the Standards Board for England (in the event of very serious allegations) or decide that no action needs to be taken. Notice in writing must be given to the complainant of the decision taken by the Standards Committee and the reasons for that decision and there is provision for a complainant to ask for a review of a decision not to take the matter any further.

2. The bill as currently drafted will give power to the Standards Board for England to suspend the powers of a Standards Committee and the Secretary of State is to have power to make regulations to prescribe the circumstances in which this power to suspend can be exercised. The matter is also expected to be the subject of directions from the Standards Board.
3. Local authorities will be required to make periodic returns to the Standards Board detailing allegations received by them and the outcome of those allegations and the Standards Board will be able to make a formal request for information.

It has been best practice so far for the Standards Committee to appoint an independent member as Chair. If the bill becomes law then this will become mandatory.

4. The bill also allows Standards Committees to grant and supervise officer exemptions from the political restrictions regulations. In the past these have been the responsibility of the independent adjudicator.

Recommended that the report be noted and that a further report be brought to the Standards Committee once the Local Government and Public Involvement in Health Bill becomes law.

7. Local Authorities (Model Code of Conduct) Order 2007

Attached as Appendix D is the new Model Code of Conduct for local authorities which was laid before Parliament on the 4 April 2007 and came into force on the 3 May 2007.

Under the Local Government Act 2000, local authorities have 6 months in which to adopt a new Code of Conduct incorporating the mandatory provisions of the new model code and if they fail to do so the code will be applied automatically.

Members of the Standards Committee are therefore asked to consider the new provisions and to make recommendations to Full Council on adoption.

For ease of reference a copy of the existing Code of Conduct is attached as Appendix E. The Standards Board for England are expected to issue guidance on the new Code of Conduct shortly

The main provisions of the new model code are as follows:-

1. The order revokes and replaces, with amendments, the four previous Codes of Conducts which apply to members of principal authorities, parish councils, the national parks and broads authorities and police authorities. There is now one code which applies to all members, whether elected, appointed, or co-opted of these various authorities.
2. The new model has been drawn up with the aim of simplifying and clarifying the code. Members will note that the language in which it is written is now gender neutral.
3. The new code applies to a local authority member whenever he/she is conducting the business of the authority or giving the impression of so do. Unlike the previous code, none of the provisions apply to a member acting in his/her private capacity except where conduct in that private capacity constitutes a criminal offence for which the member is convicted.
4. In addition to the requirement to treat others with respect there is a formal prohibition against breaching equality enactment and provisions relating to bullying and intimidation. There is no specific definition for bullying and this is expected to be covered in the guidance documentation issued by the Standards Board.
5. The current code prohibits disclosure of information given in confidence. As I explained when the revised code was subject to consultation, there was a ruling of the adjudication panel in 2005 which confirmed that the existing Code of conduct failed to take account properly of Article 10(1) of the European Convention on Human Rights. This discrepancy has been corrected and has the revised code now provides that a member may make a disclosure of information which has been given in confidence, if disclosure is made in the public interest and in good faith. Again this is an issue which is expected to be covered by the guidance.
6. The prohibition on using a position as a councillor improperly to confer an advantage or disadvantage has been extended to include attempts to do so.
7. There is now specific provision in the code to have regard to the Code of Recommended Practice on Local Authority Publicity (which generally prohibits the use by local authorities of their resources for political purposes).
8. The duty to report breaches of the code has now been removed.
9. The requirement to have regard to the advice of the Monitoring Officer and the Chief Financial Officer has now been extended to cover advice in relation to statutory duties generally.

10. The provisions which define personal interests have been simplified. Receipts of gifts or hospitality over a minimal value are now to be declared as a personal interest as well as registered. Although the register entry remains the requirement to disclose such a personal interest will cease after 3 years. The definition of a relative has been removed and there is now a reference to a "member of your family". Bodies whose purposes include influencing public opinion expressly now include political parties and trade unions so these would amount to a personal interest.
11. To allow greater involvement into local decision making the requirement of the current code that members have a personal interest if they would be affected by a matter to a greater extent than other council tax payers, rate payers or inhabitants of the local authority area have been amended. It is recognised that members should be able to take part in discussions on topics which their communities would expect them to participate in or indeed where they may even have been elected specifically to address. The requirement in the amended code is that a personal interest only arises if a member is affected by the issue to a greater extent than the majority of other persons living in a particular ward.
12. The provisions in relation to prejudicial interest have also been amended. The list of circumstances in the existing code where it is provided a member might have been regarded as not having a prejudicial interest, has now been changed to make it clear that no prejudicial interest arises in these circumstances. Other situations have been added to the list with the result that a prejudicial interest will not arise unless the members' financial position is affected or the matter relates to the grant of a permission or consent. A prejudicial interest will not arise in relation to the setting of council tax or precepts, consideration of ceremonial honours and the granting of allowances payments and indemnities.
13. A significant change in the rules relating to prejudicial interest is that in relation to withdrawal. Under the present code a member with a prejudicial interest has to withdraw from the room and take absolutely no part in a discussion or debate. The new code provides that a member with a prejudicial interest may attend a meeting to make representations, answer questions and give evidence, provided the public are also allowed to attend the meeting for the same purpose. The member with a prejudicial interest must however withdraw from the room as soon as the representations have been made and clearly cannot take part in the formal determination of the matter.
14. In relation to disclosure of interest there is a new provision in the amended code which would allow a member who might be subjected to violence or intimidation because of sensitive information, to make a disclosure to the Monitoring Officer rather than to the meeting at large.

Although the guidance on the Standards Board is still awaited it is expected that this will urge local authorities to adopt the new Code of Conduct as drafted and not to add additional provisions.

Members' are asked whether they wish to recommend to the City Council that the Code of Conduct as now amended by adopted in the form set out in the Local Authorities (Model Code of Conduct) Order 2007 or whether they wish to add any additional provisions to the mandatory provisions set out in the order.

Members are reminded that the guidance of the Standards Board for England is that additional provisions are not added to the Code. The Standards Committee was however on the last occasion minded to amend the existing Code of Conduct by making provision:-

- i) for offers of gifts and hospitality whether accepted or not, over the value of £25, to be declared and recorded
- ii) for membership of private clubs to be included in the register of members' financial and other interests.

Members' instructions are requested.

8. Bulletin 33

For information

ROADSHOW 2007

Programme

13.00	Registration	Tea and coffee will be available.
14.00	Welcome and update	A summary of news from the Standards Board for England, and an update on key developments in the ethical environment.
14.30	The revised Code	An overview of the revised Code of Conduct, and how the changes will affect you. There will be an opportunity for questions.
15.15	Predetermination and bias	Although not part of the Code, the issues of predetermination and bias are important for members and monitoring officers. The Standards Board's view.
15.30	Break	Tea and coffee will be available.
15.45	Challenges for 2008	Looking to the year ahead, with challenges including the local filter for complaints and a more strategic role for the Standards Board for England.
16.10	Open house Q&A	An opportunity to ask questions of the Standards Board for England, on any topic.
16.30	End of formal session	Tea and coffee will be served, and representatives from the Standards Board for England will be available.
17.00	Close	



the
Standards Board
for England

23 May 2007

Sir Anthony Holland
Chair

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To: All Leaders of Councils
c.c. Chief Executives
Monitoring Officers

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Dear Leader

My four politically nominated Board members and I are writing to seek your continuing assistance in putting responsibility for upholding high ethical standards firmly where it belongs – at the heart of every local authority's own culture. The recent White Paper stated that the UK has a strong reputation of high standards in public life, and it is important for the future well-being of local government that this is maintained. We firmly believe that the maintenance of high standards is essential to an effective local democracy.

We therefore warmly welcome the recent Parliamentary confirmation of the revised Code of Conduct. As we requested, following our consultation in 2005, this now gives councillors much greater scope to speak up for local residents and local issues. It is clearer, and removes unnecessary restrictions whilst continuing to ensure that there is a firm set of principles underpinning public trust in their local representatives.

Some councils have already adopted the new Code. We urge its early adoption, to achieve the benefits for, and ensure consistent treatment of, councillors nationally.

The new Code is a key step in the switch to a bottom-up approach to the handling of alleged breaches of the Code. Assuming the Local Government and Public Involvement in Health Bill completes its final Parliamentary stages, from April 2008 your own standards committee will receive, filter and, where necessary, investigate most allegations of misconduct. Only where this is not possible, as in the most serious cases, will investigations be referred to the Board. This continues the trend we have already established, with over half of investigated cases being dealt with locally and will allow the Board to increase its efforts in promoting high standards generally supporting those few councils who face difficulties.

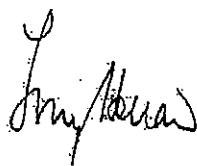
Your standards committee, and its chair, will be the lynch pin to the success of local handling, and to public confidence in it. Our recent research shows that many standards committees have now established mature and constructive relationships in which elected and independent members, of the right calibre and capacity, are genuinely working together to achieve the common goal of achieving a robust local ethical framework. It also shows that the overt support and commitment of Leaders and Elected Mayors is critical to their success. We therefore seek your support in making this the norm in all authorities.

While our research also shows that monitoring officers are generally positive about their changing role, we also ask you to ensure that they are properly supported and resourced in carrying out their new responsibilities. They will need your support in giving the robust and independent advice essential to the confidence of both members and the public in dealing locally with standards issues.

The Board will be working with the Department for Communities and Local Government and all sectors of local government to ensure that the new Code is as clear and workable as possible, and in developing appropriate guidance and training materials to support local authorities in their new responsibilities.

We believe that by making a success of these changing arrangements, councils can reinforce their generally high standing as leaders in standards of conduct, setting an example to the many other bodies with whom they work in partnership. For our part we are more than happy to share our considerable bank of good practice with any council interested in improving its performance in this area. If therefore you want your chief executive or monitoring officer to explore this matter further, we will be happy to respond. Meanwhile, in our own more strategic regulatory role, we will provide, in as light touch a way as possible, the independent monitoring and oversight needed for the public to have confidence that high standards are being maintained nationally.

Yours sincerely



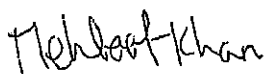
Sir Anthony Holland
Chair



Councillor Mrs Shirley Flint



Councillor Beatrice Fraenkel



Councillor Mehboob Khan



Councillor Sir Ron Watson CBE

The Standards Board for England

Monitoring Officer's Report

**Regulation 5 Local Authorities (Code of Conduct) (Local Determination)
Regulations 2003 as Amended**

**Report of the Monitoring Officer following a Direction under the Above-
mentioned Regulations to facilitate a process of Training and Guidance**

Local Authority – City of Durham Council

Member - Councillor William Kellett

Complainant – Councillor Brenda Tall

Date of Notification – 23 March 2006

Complaint – Breach of Code of Conduct

Standards Board Reference – SBE14399.06

Monitoring Officer – Lesley Gillian Blackie

Date of Report – 2 April 2007

Paragraph 1 – Background

- 1.1 On 27 March 2006 the Standards Board for England notified me of a new allegation received by them.

The complainant, Parish Councillor Brenda Tall, alleged that since her election to Pitlington Parish Council in 2003, the Chairman, Councillor William Kellett, had acted in a rude, unpleasant and hostile manner towards her. The complainant submitted a chronological record of Councillor Kellett's alleged behaviour. In particular, the complainant alleged that at successive meetings, Councillor Kellett had been consistently disrespectful towards her, allegedly telling her to "shut up" and be quiet and refusing to answer her questions. The complainant also alleged that on occasions his responses constituted a questioning of her ability as an elected member. There were a number of further allegations.

- 1.2 The complaint was subjected to an assessment to decide whether to refer it for investigation and the decision was to refer the allegation to an Ethical Standards Officer.

The Ethical Standards Officer considered the matter and decided that the case would best be dealt with by way of a direction to facilitate a process of mediation between all members of Pitlington Parish Council and to arrange training and guidance to improve members understanding of Council procedures, particularly in relation to the procedures followed at Council meetings. She considered that the training should also include chairmanship training for all members and she recommended that the training, guidance and mediation should also include the Clerk, Mr McCutcheon.

On 17 May 2006 the following direction was issued by the Ethical Standards Officer:-

"I direct that you facilitate a process of training and guidance to all members of Pitlington Parish Council and also the Clerk. The process will focus on improving their understanding of local government procedures, conduct in meetings and chairmanship skills. An interim report of progress made should be provided to me within 3 months of the date of this direction.

In addition, I direct that you facilitate a process of mediation between the members. Again, an interim report on progress made should be provided to me within 3 months of the date of this direction".

- 1.3 The purpose of the direction was two-fold. The training and guidance to be provided was intended to improve the skills of Councillors and the Clerk in dealing with and resolving conflict and to enable the Councillors and the Clerk to adopt best practice in conduct of Parish Council meetings. Secondly, the mediation was intended to resolve the various disputes between Councillors Tall and Kellett with a view to council business being conducted in a proper manner which commanded the respect of the parishioners of Pitlington.
- 1.4 On receipt of the direction I appointed Keith Bell of Keith Bell Associates, Crookhall, Sidegate, Durham, DH1 5SZ to mediate in this case.
- 1.5 I also contacted Steve Ragg, the Executive Officer of the Durham Association of Local Councils for the purposes of arranging training for the Parish Council. He

referred me to the County Training Partnership with the Cleveland Association of Local Councils, of whom the lead officer was Eleanor Haywood, from the North East Regional Employers Organisation. He was able to confirm to me that one of the training courses which the County Training Partnership was contemplating was in respect of chairmanship training.

- 1.6 The chairmanship training was to be delivered in six modules in three groups. The first two modules addressed the topic of developing chairmanship skills and included chairing a meeting and professional conduct. The third and fourth modules were intended to give specialist skills for chairing Parish and Town Council meetings and covered the public and the media and conduct and other challenging issues. The last two modules were concerned with developing vision and leadership within the community and covered chairing a challenging meeting and visionary leadership.
- 1.7 I suggested to Councillor Kellett that although he had been the Chair of the Parish Council for sometime and did not fall within the category of Chairman with little or no previous experience (at which the first modules were specifically aimed) it was, in my view, appropriate for him to attend all six modules as the early ones would be useful as a refresher. I made a provisional booking on his behalf and was disappointed when he did not attend the first session on 24 June 2006, giving as an excuse that there had been insufficient notice and also that he wanted the matter of fees to be considered by the Parish Council first. I had indicated to the Parish Council that whilst I was hopeful they would be prepared in due course to reimburse the fees for the training, these would be met in the first instance by the City Council. Councillor Kellett then advised me that he was unable to attend the second module because he would be on holiday.
- 1.8 There were initial meetings between the Mediator and Councillors Tall and Kellett (separately) on 23 June 2006 and the Mediator followed this up with a meeting with the Parish Clerk on 27 July 2006.
- 1.9 Although there was a recognition that there had been some improvement in the relationship between Councillor Tall and Kellett, neither were prepared to take part in further mediation and particularly were not prepared to participate in a joint session.
- 1.10 I prepared an interim report for the Ethical Standards Officer on 25 August 2006 confirming that the Mediator felt he could take the matter no further forward and explaining the lack of attendance at the early part of the chairmanship training sessions. I asked for further instructions.
- 1.11 The Ethical Standards Officer expressed disappointment that mediation had not been pursued beyond the initial meeting, owing to lack of commitment from both Councillors but requested that the Mediator be asked to arrange a follow-up mediation meeting, pointing out that should there be any further complaints between those parties then the reluctance to engage fully in the direction process would operate to their respective disadvantage.
- 1.12 Following a Parish Council meeting in October 2006 Councillor Tall contacted me express her concern at the manner in which she had been treated at the meeting and indicating she was proposing to make a further complaint to the Standards Board for England.
- 1.13 Councillor Tall subsequently lodged a further complaint with the Standards Board

for England and the Ethical Standards Officer decided that the correspondence should be considered as part of the directions process and not be referred as a separate allegation.

- 1.14 The Mediator advised me in an email dated 17 November 2006 that Councillor Tall had indicated she was prepared to meet with Councillor Kellett. However, in his contact with Councillor Kellett the latter had said nothing could be achieved as a result of a further mediation meeting and he was not prepared to attend such a session. He did, however, indicate to the Mediator that he would behave towards Councillor Tall in an appropriate manner in the future.
- 1.15 In those circumstances, the Mediator felt that there was nothing further he could achieve.
- 1.16 I notified the Ethical Standards Officer by email dated 20 November 2006 that attempts to get the parties around the table in relation to the complaint had failed.
- 1.17 I had somewhat more success with the direction in relation to training for the Parish Council as a whole. With the assistance of Mr Ragg I identified a training package for Parish Councils called "What's on the Agenda" and arrangements were made for this training package to be offered to Pitlington Parish Council. Arrangements were also made for the Council to order copies of a publication called "The Councillors' Guide"
- 1.18 The date for the third and fourth modules of the Chairmanship training package was set at 27 January 2007, combining both sessions into one. Arrangements were made for Councillor Kellett to attend. In the event the training had to be cancelled at the last minute as there was insufficient interest in the course. The organisers were concerned that in the run up to Local Government Elections in May 2007 there was some reluctance on the part of Parish Councils to pay for attendance of Councillors at training sessions when there was a risk those Councillors might not be returned at the election. At the present time therefore, the training remains outstanding and no further modules have been arranged.
- 1.19 On 6 December 2006 the Ethical Standards Office wrote to me and confirmed that there was little to be gained by insisting that Councillor Kellett attended a further mediation session and requesting that the failure in the direction process be recorded in my final report.

Paragraph 2 – Conclusions

- 2.1 The direction issued by the Ethical Standards Officer in this case was intended to improve the skills of Councillors and the Clerk of Pitlington Parish Council, in dealing with and resolving conflict and to enable the Councillors and the Clerk to adopt Best Practice in the conduct of Parish Council meetings. In addition, the mediation which was proposed was intended to resolve the various disputes between the complainant and the member complained about, with a view to Council business being conducted in a proper manner and one which commanded the respect of the parishioners of Pitlington.
- 2.2 It is with regret that I must conclude that these aims have not been achieved in their entirety.
- 2.3 Although I have received little in the way of feedback from the training session entitled "What's on the Agenda" which was arranged for the Parish Council and Clerk as a whole through the kind offices of the Executive Officer of the Durham

Association of Local Councils, the indications are that this was received well. I am hopeful therefore that the training session will inform the whole of the Parish Council in adopting Best Practice in the conduct of Parish Council meetings.

- 2.4 It is also worthy of recording that the Parish Council has obtained a supply of copies of "The Councillors' Guide" for distribution and this must aid members knowledge and provide examples of good practice.
- 2.5 The six modules of Chairmanship skills which were identified as appropriate for the Chairman of the Parish Council have not proved to be successful. It is very much to be regretted that the Chairman chose not to attend the first session of the training and then was unavailable because of holiday commitments for the second. The unsatisfactory state of affairs has been compounded by the fact that the third and fourth sessions had to be cancelled because of poor attendance and no new date has yet been fixed.
- 2.6 It is however, very disappointing that the mediation which was arranged between the parties to the complaint had not been successful. Every opportunity was given to both parties to air their views and although the individual sessions were helpful, initially, neither party would agree to meet together with the Mediator.
- 2.7 When a further approach was made by the Mediator to the parties to urge them to agree to a joint session the complainant changed her mind and was prepared, albeit reluctantly, to take part but the session could not be arranged because of the position maintained by the Chairman of the Parish Council. Overall therefore, the direction to mediate must be recorded as a failure.
- 2.8 The consequence of mediation being unsuccessful has been that complaints continue to be made following meetings of the Pitlington Parish Council both by and against the complainant. It seems that there has been little improvement in the personal relationships which were at the heart of the original complaint and this is very much to be regretted.
- 2.9 There is to be a Parish Council Election in Pitlington Ward on 3 May 2007. The complainant and the member complained off are both standing for re-election. It is to be hoped that the Parish Council, when it re-convenes following the Election, will put its problems of recent years behind it and will start with a clean sheet.

List of Documents Referred To

27 March 2006	Notification of new allegation received by SBE
17 May 2006	Letter from the Standards Board for England issuing a Direction
19 May 2006	Letter of instruction to Keith Bell, Mediator
21 June 2006	Correspondence from the Standards Board for England enclosing letters of complaint about Councillor Tall from Councillor Kellett
Undated	Standing Orders for Pitlington Parish Council
15 June 2006	Letter from the Clerk to Pitlington Parish Council
26 June 2006	My letter in response
30 June 2006	Email from the Mediator and copied to the parties to the complaint
20 August 2006	Report from Mediator
25 August 2006	Interim Report to Ethical Standards Officer
18 September 2006	Letter from Ethical Standards Officer
23 October 2006	Email from Mediator
30 October 2006	Letter to Clerk to Parish Council
21 October 2006	Further letter of complaint from Councillor Tall
2 November 2006	Letter from Ethical Standards Officer – correspondence to be considered as part of Directions Process
6 November 2006	Email to Ethical Standards Officer
6 November 2006	Email to Mediator
17 November 2006	Email from Mediator
20 November 2006	Email to Ethical Standards Officer
27 November 2006	Letter to Parish Clerk
4 December 2006	Reply from Parish Clerk
6 December 2006	Letter from Ethical Standards Officer
15 January 2007	Email to Standards Board for England

SCHEDULE

THE MODEL CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1. —(1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State^[13].

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

"meeting" means any meeting of—

(a) the authority;

(b) the executive of the authority;

(c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area

committees;

"member" includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3. —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006[14]);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986[15].

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2**Interests****Personal interests**

8. —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the

influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly

constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000[16].

Prejudicial interest generally

10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

13. —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in

paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

THE MODEL CODE OF CONDUCT AUTHORITIES OPERATING EXECUTIVE ARRANGEMENTS

**PART 1
GENERAL PROVISIONS**

Scope

1. (1) A Member must observe the Authority's Code of Conduct whenever he/she –
 - (a) conducts the business of the Authority;
 - (b) conducts the business of the office to which he/she has been elected or appointed;
or
 - (c) acts as a representative of the Authority,and references to a member's official capacity shall be construed accordingly.
- (2) An Authority's Code of Conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a Member undertaken other than in an official capacity.
- (3) Where a Member acts as a representative of the Authority –
 - (a) on another relevant authority, he/she must, when acting for that other Authority, comply with that other Authority's Code of Conduct; or
 - (b) on any other Body, he/she must, when acting for that other Body, comply with the Authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other Body may be subject.
- (4) In this Code, "Member" includes a Co-opted Member of an Authority.

General Obligations

2. A Member must –
 - (a) promote equality by not discriminating unlawfully against any person;
 - (b) treat others with respect; and
 - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
3. A Member must not –
 - (a) disclose information given to him/her in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he/she is required by law to do so; nor
 - (b) prevent another person from gaining access to information to which that person is entitled by law.

4. A Member must not in his/her official capacity, or any other circumstance, conduct himself/herself in a manner which could reasonably be regarded as bringing his/her office or Authority into disrepute.
5. A Member –
 - (a) must not in his/her official capacity, or any other circumstance, use his/her position as a member improperly to confer on or secure for himself/herself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the Authority –
 - (i) act in accordance with the Authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which the Member has been elected or appointed.
6. (1) A Member must when reaching decisions –
 - (a) have regard to any relevant advice provided to him/her by –
 - (i) the Authority's Chief Finance Officer acting in pursuance of his/her duties under section 114 of the Local Government Finance Act 1988; and
 - (ii) the Authority's Monitoring Officer acting in pursuance of his/her duties under section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the Authority's and any statutory requirements in relation to the taking of an executive decision.
- (2) In sub-paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.
7. A Member must, if he/she becomes aware of any conduct by another Member which he reasonably believes involves a failure to comply with the Authority's Code of Conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him/her to do so.

PART 2 INTERESTS

Personal Interests

8. (1) A Member must regard himself/herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other Council Tax Payers, Ratepayers or inhabitants of the Authority's area, the well-being or financial position of himself/herself, a relative or a friend or –
- (a) any employment or business carried on by such persons;
 - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any Company of which they are Directors;
 - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in sub-paragraphs (a) to (f) of paragraph 15 below in which such persons hold a position of general control or management.
- (2) In this paragraph –
- (a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
 - (b) "partner" in sub-paragraph (2)(a) above means a Member of a couple who live together.

Disclosure of Personal Interests

9. (1) A Member with a personal interest in a matter who attends a meeting of the Authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 12(1)(b) below, a Member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

Prejudicial Interests

10. (1) Subject to sub-paragraph (2) below, a Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
- (2) A Member may regard himself/herself as not having a prejudicial interest in a matter if that matter relates to –
- (a) another relevant Authority of which he/she is a Member;
 - (b) another public Authority in which he/she holds a position of general control or management;

- (c) a Body to which he/she has been appointed or nominated by the Authority as its representative;
- (d) the housing functions of the Authority where the Member holds a tenancy or lease with a relevant authority, provided that he/she does not have arrears of rent with that relevant Authority of more than two months, and provided that those functions do not relate particularly to the Member's tenancy or lease;
- (e) the functions of the Authority in respect of school meals, transport and travelling expenses, where the Member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
- (f) the functions of the Authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is entitled to the receipt of such pay from a relevant Authority; and
- (g) the functions of the Authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

Scrutiny Committee and Scrutiny Panels

11. (1) For the purposes of this Part, a Member must if he/she is involved in the consideration of a matter at a meeting of a Scrutiny Committee of the Authority or a Sub-Committee or Panel of such a Committee, regard himself/herself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the Authority's –

- (a) Committees or Sub-Committees; or
- (b) Joint Committees or Joint Sub-Committees,

of which he/she may also be a Member.

(2) But sub-paragraph (1) above shall not apply if that Member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in Relation to Disclosed Interests

12. (1) Subject to sub-paragraph (2) below, a Member with a prejudicial interest in any matter must –

(a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the Authority's Standard's Committee;

(b) not exercise executive functions in relation to that matter; and

(c) not seek improperly to influence a decision about that matter.

(2) A Member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 11 above, participate in a meeting of the Authority's –

(a) Scrutiny Committees; and

(b) Joint or Area Committees,

to the extent that such Committees are not exercising functions of the Authority or its Executive.

- 13.** For the purposes of this Part, "meeting" means any meeting of –
- (a) the Authority;
 - (b) the Executive of the Authority; or
 - (c) any of the Authority's or its Executive's Committees, Sub-Committees, Joint Committees, Joint Sub-Committees, or Area Committees.

PART 3
THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests

- 14.** Within 28 days of the provisions of an Authority's Code of Conduct being adopted or applied to that Authority or within 28 days of his/her election or appointment to office (if that is later), a Member must register his/her financial interests in the Authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the Authority's Monitoring Officer of –
- (a) any employment or business carried on by him/her;
 - (b) the name of the person who employs or has appointed him/her, the name of any firm in which he/she is a Partner, and the name of any Company for which he/she is a remunerated Director;
 - (c) the name of any person, other than a relevant authority, who has made a payment to him/her in respect of his election or any expenses incurred by him/her in carrying out his duties;
 - (d) the name of any Corporate Body which has a place of business or land in the Authority's area, and in which the Member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (e) a description of any contract for goods, services or works made between the Authority and himself/herself or a firm in which he/she is a Partner, a Company of which he/she is a remunerated Director, or a body of the description specified in sub-paragraph (d) above;
 - (f) the address or other description (sufficient to identify the location) of any land in which he/she has a beneficial interest and which is in the area of the Authority;
 - (g) the address or other description (sufficient to identify the location) of any land where the landlord is the Authority and the tenant is a firm in which he/she is a Partner, a Company of which he/she is a remunerated Director, or a body of the description specified in sub-paragraph (d) above; and
 - (h) the address or other description (sufficient to identify the location) of any land in the Authority's area in which he/she has a licence (alone or jointly with others) to occupy for 28 days or longer.
- 15.** Within 28 days of the provisions of the Authority's Code of Conduct being adopted or applied to that Authority or within 28 days of his/her election or appointment to office (if that is later), a Member must register his/her other interests in the Authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the Authority's Monitoring Officer of his/her membership of or position of general control or management in any –
- (a) Body to which he/she has been appointed or nominated by the Authority as its representative;
 - (b) Public Authority or Body exercising functions of a public nature;

- (c) Company, industrial and Provident Society, Charity, or Body directed to charitable purposes;
 - (d) Body whose principal purposes include the influence of public opinion or policy; and
 - (e) Trade Union or Professional Association.
 - (f) A Private Club
16. A Member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the Authority's Monitoring Officer of that change.

Registration of Gifts and Hospitality

17. A Member must within 28 days of being offered any gift or hospitality over the value of £25, (whether or not such offer is accepted) provide written notification to the Authority's Monitoring Officer of the existence and nature of that gift or hospitality.

PART 4

THE GENERAL PRINCIPLES

1. Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2. Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

3. Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

4. Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

5. Openness

Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

6. Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

7. Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's statutory Officers, and its other employees.

8. Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

9. Stewardship

Members should do whatever they are able to do to ensure that their Authorities use their resources prudently and in accordance with the law.

10. Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

THE BULLETIN # 33

May 2007

Welcome to Issue 33 of the Bulletin.

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Contact

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

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 well-being
 - 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:

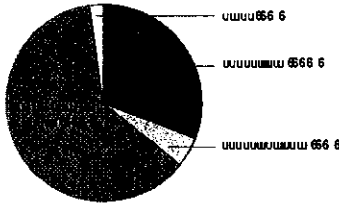
"We welcome both Hazel and Sara to the organisation. The Standards Board will benefit from the experience and knowledge that they have both gathered over the many years they have spent working closely with local government. They will have an important role to play in establishing the new teams in Manchester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

Referral and investigation statistics

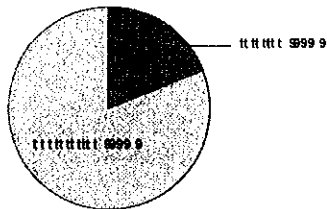
The Standards Board for England received 3549 allegations between 1 April and 31 March 2007, compared to 3836 during the same period in 2005/2006.

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

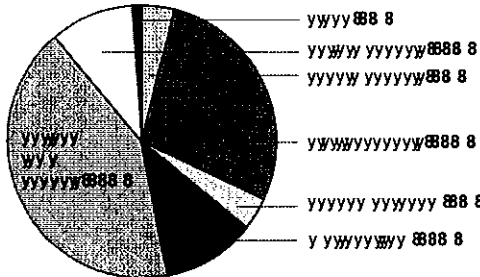
Source of allegations received



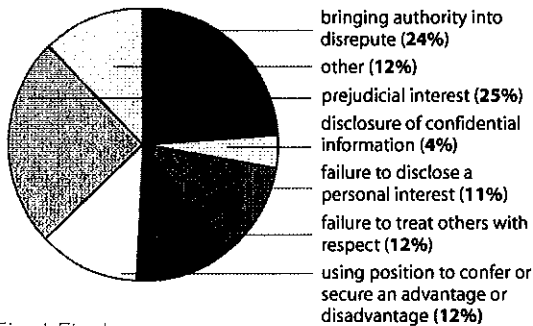
Allegations referred for investigation



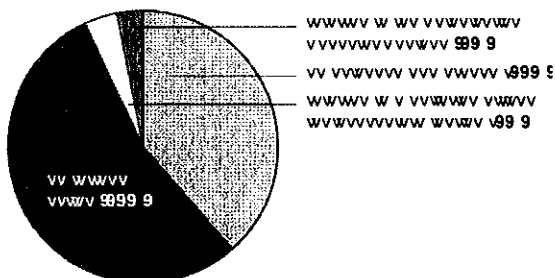
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



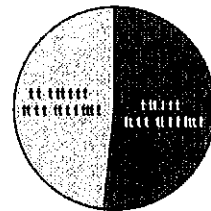
Final Findings



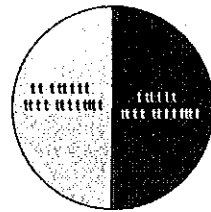
Local investigation statistics

Of all cases referred since April 2006 for local investigation we have received a total of 46 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

