

Standards Committee

8 November 2005

Fourth Annual Assembly of Standards Committees

**5-6 September 2005 ICC
Birmingham**



Report of Delegates

In his welcome address, the Chairman, Sir Anthony Holland referred to the past year's progress in clearing a backlog of 400 investigations and by a speeding up of the investigation process completing nearly twice as many investigations than the previous year. Some 34% of investigation had been referred back for local investigation.

1. PHILIP WOOLAS

Philip Woolas MP, Minister for Local Government and former Deputy Leader of the House of Commons formally opened the conference by setting out his vision for local government. He emphasised that creating the right culture/environment where misconduct did not arise was essential and that as culture starts at the top it should be on all Local Authority Leaders' and Chief Executives' agendas. He also made the point that there was nothing to be gained by making vexatious complaints.

2. DAVID PRINCE

David Prince, the Board Chief Executive presented a round up of events over the past year, including an update on the review of the Code of Conduct, and the need to focus on local responsibilities for ethical standards. Key points included:

- (i) In 2004/2005 there were 3,861 allegations, of which
 - 22% cases referred for investigation
 - 62% from public
 - 34% cases investigated locally
 - 9% determined locally
 - 71% cases completed within six months (target is 90%)
- (ii) As a result of cases now being referred for local investigation the Standards Board were reducing their investigative team.

(iii) Review of the Code of Conduct – the key messages received from Authorities/Standards Committees during the consultation process included:

- A simpler, enabling code was required.
- Councillors able to be community advocates.
- Confidentiality to be defined by the Freedom of Information Act.
- Public interest to be a defence.
- Personal and prejudicial interests to be simplified.
- Private life only an issue if a serious breach is concerned.

The Chief Executive referred to the fact that the Board was committed to work with the Government to find further ways of reducing politically-motivated complaints. He expressed concern about press reporting of allegations which in some instances had occurred prior to their submission to the Standards Board.

3. SIR ALISTAIR GRAHAM

Sir Alistair Graham, Chair of the Committee on Standards in Public Life addressed the conference. His key message was that there was a need for greater local involvement in dealing with Member complaints and that his committee was looking for progress to a more localised system.

He acknowledged that the vast majority of Councillors and Officers operate high standards, albeit public trust in councillors was low.

He summarised the concerns his committee had received in its review of the code -

- The present system is a centralised top-down system and that there was a lack of local involvement.
- The volume and speed of handling of complaints.
- The impact on Members needed investigating.
- There were abuses of the complaints system carried by political “tit for tat”.
- Some local filtering should be allowed in accordance with a clear regulatory framework.

He completed his presentation by stating his committee ‘strongly recommended a more locally based system with more local involvement’. He said that after local sifting/scrutiny only serious complaints should be referred nationally for investigation.

He also believed that there should be a majority of independent members on Standards Committees and that independent chairs should be the norm.

4. WORKSHOPS

During the course of the two days we attended the following workshops.

(i) 'A First Hand Account' – Investigations

Between January to June 2005, 151 (34%) cases had been referred for local investigation. 24% of those referrals had been completed with a breach found in 60% of completed cases. Sanctions so far varied from 'censure' (for rudeness) to 3 months suspension (personal/prejudicial interests).

Two Monitoring Officers from Slough and Scarborough Borough Council's outlined their experience in dealing with local investigations. Between them there had been 10.

Scarborough

6 investigations of which 4 had been concluded with only one hearing. Appointed Lawyer to conduct investigations. "Investigating Officer needs to be robust and an independent minded individual".

A difficulty had occurred on one occasion as two Standards Committee members had been approached by one of the members involved and as such had to step down. On another occasion there was a complaint about the investigator – who was changed, as it was felt his position was undermined.

Slough

4 Investigations.

"Investigations take up a lot of time and energy"

"Lawyers are expensive and are no better than in-house staff (non lawyers)"

"Give Investigating Officer copy of Standards Board Guidance Book"

"Investigating Officer needs to be thick skinned and have good communication skills – both oral and in written form"

"Not a great lover of preliminary hearings. Gives both sides two bites of the cherry".

Lessons learned by both Monitoring Officers

1. Independent members have a key role.
2. Training needed for investigators.
3. Case management need –
 - (a) flowpath
 - (b) standard documents.
4. The Standards Board has a key role in terms of guidance.

Both Monitoring Officers referred to the need for an informal process to deal with minor complaints

NB – The Standards Board will release a training DVD and notes in November.

(ii) A First Hand account – Hearings

The Chief Executive/Monitoring Officer and the Chair of Bradford Standards Committee had held one hearing relating to an allegation of disrepute and failure to use an Authority laptop PC in accordance with the council's requirements (had downloaded pornography).

The case was nearly 20 months old when heard and had attracted a lot of local media interest (front page).

An adversarial model (as opposed to an inquisitorial model) was adopted for the hearing. Guidance/procedural notes and model letters had been prepared in advance of the hearing referral.

Guidance note/checklist for the Chairman and Members prepared and found to be very useful.

3 Members were drawn from the Standards Committee for the hearing.

The key advice offered was "Get your act together before it is needed".

(iii) Hearings in your Hands

This workshop was presented and chaired by Steve Wells a member of the Adjudication Panel for England, who talked about the adjudication/hearing process during which he gave some general advice.

He recommended 3 members for a Standards Committee hearing as it was easier to manage and advised that the Chair should be one of the independent members.

He also recommended that a member of the councillor's own party be on the hearing panel to satisfy the Member's perception of fairness.

Those present generally disagreed with this.

There was some debate as to the benefit or otherwise of recording hearings as opposed to an administrator taking notes. This was at the discretion of Standards Committees albeit tribunals are recorded.

(iv) **Alternative Action**

This workshop highlighted the need for Monitoring Officers and Standards Committees to promote high standards in public life (through training etc) and considered alternative actions other than the prescribed formal procedures.

Alternative actions could involve one or more of the following –

1. Councillor to apologise.
2. Timely word about behaviour.
3. If not willing to apologise – conciliation/mediations.
4. Training.
5. Change of Procedure.
6. Sharing of best practice/lessons learnt.

(v) **Beyond the Code**

This workshop took the form of a general discussion to assist those present to assess where they were as compared with other Standards Committees, with recommendations by the panel that Chairs should have –

1. unrestricted access to the Chief Executive, Monitoring Officer and party leaders
2. a seat in the council chamber
3. the right to address the Council
4. the right to present a report to Council and
5. an expectation to be treated as a member of the council.

It was also recommended as good practice that elected members on Standards Committees should have benefited from the experience of at least one full term in office, before appointment to the committee.

It was also seen as good practice that a Standards Committee prepare an annual report.

(vi) **CPA: Inspecting and Auditing the Ethical Dimension**

The Audit Commission presented this session, examining how ethical standards and the work of Standards Committees are assessed to inform inspection judgements.

They questioned “How is it working on the ground?” and advised that each Council should conduct a self assessment, which would help prepare for an audit. **With this in mind an ‘Ethical Governance Diagnostic Toolkit’ was available.**

Audits so far revealed that the majority of Members behaved well and performed their duties honestly and impartially. Communication between Members and officers was constructive.

NB. ‘Whistle Blowing Policy’ – Advised that we should review.

(vii) **Reaching the right decision**

Through the use of case studies about allegations referred for local investigation delegates looked at the evidence gathering and investigative process, leading to the preparation of the final report for the hearing by the Standards Committee.

The report is an important document and serves two purposes:-

1. To enable the Standards Committee to reach a fair and proportionate decision – the report should be able to “stand on its own” as a complete summary of the issues.
2. To minimise the potential for disagreement at the hearing. All relevant issues should be covered and if matters are raised by the parties during the investigation the report should refer to these and say why it is believed they are not relevant.

The report should not comment on what might be an appropriate sanction but may mention mitigating/aggravating circumstances and comment on the gravity of the breach.

5. PLENARY SESSION – PUBLIC CONFIDENCE IN YOUR HANDS – MISSION IMPOSSIBLE?

Three guest speakers, Shaun Lowthorpe (a public affairs correspondent, Eastern Daily Press), Gillian Norton (Chief Executive, London Borough of Richmond) and Professor Gerry Stoker (University of Manchester) who debated the issue 'Will the public ever trust Local Government?'

6. CONCLUSION

Once again the conference was extremely well organised. It brought those attending up to date with current thinking and allowed interaction between representatives from the various Authorities, particularly those who had experience of local investigations and hearings.

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