

# Item 4

## REPORT TO STANDARDS COMMITTEE

9TH FEBRUARY 2006

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF MISCONDUCT AT NATIONAL AND LOCAL LEVEL - 2005

#### 1. SUMMARY

- 1.1 This report analyses the current trends in allegations of misconduct, submitted to the Standards Board relating to misconduct by elected, co-opted and independent members of local authorities.
- 1.2 The detail of this report specifies a range of areas that are to be considered in order to establish national trend patterns.
- 1.3 The areas comprise of the number and source of allegations submitted for investigation, the type of authority whom the investigation concerns, the nature of the investigation and the final findings.
- 1.4 Focus is also placed upon complaints of misconduct that have arisen at a local level. Local trends will be determined from the nature of the allegation, the type of authority involved, the outcome of the investigation and the outcome of the decisions that have been challenged. Comment will be made upon implications for the Council in terms of its own Code of Conduct and governance.

#### 2. RECOMMENDATIONS

- 2.1 To note the general trends in complaints of misconduct investigated at a national and local level.
- 2.2 That the Standards Committee be appraised of the report and that further similar reports be made annually.

#### 3. DETAIL

##### PART A – National Trends

- 3.1 The Standards Board for England publishes a monthly statistical digest, offering a breakdown of yearly and monthly statistics. The statistics, which have been collated, are cumulative from April 2005, and therefore cover part of the calendar year.

- 3.2 **Number of allegations:** Since April 2005 the Standards Board received 2709 complaints in total. The number of allegations each month are inconsistent with one another; subsequently a trend pattern establishing an increase or decline in cases cannot be adduced.
- 3.3 The number of complaints averages at approximately 350 a month, however, the number of cases in October 2005 significantly increased to 496 cases; there is no apparent reason for this increase.
- 3.4 When making comparisons to statistics from previous years, it is interesting to note that the total number of complaints have increased over the years. This could suggest a greater awareness of the complaints procedure and standards issues in general or possibly that more people are articulating their complaints.
- 3.5 **Source of allegations:** The source of allegations submitted to the Standards Board for investigation varies. The Board has highlighted the common sources from which they receive complaints, indicating that council employees, fellow councillors and members of the public are the prevalent sources.
- 3.6 Complaints submitted by council employees are significantly low at only 6%. This figure has stabilised since 2003, but previous to this, council employees submitted twice as many complaints.
- 3.7 Noticeably, complaints from fellow councillors have decreased significantly over the years. The current percentage, cumulative since April 2005 is 29% compared to previous years where the percentage one year escalated to a high of 43%.
- 3.8 Evidently, the number of complaints received from aggrieved members of the public has significantly increased since 2003. Approximately three quarters of the complaints submitted to the Standards Board are from members of the public. A number of factors could have contributed to this rise, for example, an increase in public confidence in the complaints procedure or a greater awareness of the complaints process.
- 3.9 However, the Standards Board has conducted research into public perceptions of ethics and the overall findings suggest that awareness of the Board is low. The Standards Board commented; “many people responded positively to the idea of having a Standards Board, although showed surprise that they had not heard of the organisation”. This research asserts that public usage of the Board is low but the statistics do not support this, as the majority of complaints are submitted from the public.
- 3.10 **Type of Authority (Investigations):** The Standards Board receives complaints of misconduct from several different types of authority. Types of authority identified are, County Councils, District Councils, London and Metropolitan Borough Councils, Parish/Town Councils and Unitary Councils. Interestingly, half of the investigations conducted by the Standards Board involved members of Parish/Town Councils.

- 3.11 An article was published in the Standards Committee News: 04 (November 2005) focusing on “Tackling Parish Problems at the Root”. It was expressed that some investigations concerning Parish Councillors reveal long standing problems and more deeply ingrained issues within an authority, which investigations alone cannot address. For example, factionalism, dominant and destructive personalities and bullying.
- 3.12 **Nature of Investigations:** The areas of misconduct, reported nationally comprise of bringing the authority into disrepute, failure to disclose personal interests, failure to register financial interests, failure to treat others with respect, prejudicial interests and using a position to confer or secure an advantage or disadvantage.
- 3.13 Bringing the authority into disrepute and prejudicial interests are the areas of misconduct identified by the Standards Board to frequently receive the highest number of complaints. Each area accrued 23% of the complaints, collectively since April 2005, compared to the average of 14% attained in the remaining areas.
- 3.14 Comparing previous years statistics, the general trend pattern indicates that the two main areas of misconduct on a national scale are bringing the authority into disrepute and prejudicial interests. However, bringing the authority into disrepute is usually linked with other breaches of the Code of Conduct, rarely is it the sole breach.
- 3.15 Bringing the authority into disrepute can cover a wide range of unlawful activities, for example drink-driving, violent behaviour or taking advantage of a council mistake. The Committee on Standards in Public Life, in the report on their Tenth Inquiry, recommended that activities that fall within this category should be restricted “solely to the public life” of a Councillor. However, the Standards Board does not support this view, stating that, “[we] believe there are certain unlawful activities which, although not carried out in an official capacity, would still damage the public’s perception of that member’s fitness for office”.
- 3.16 Significantly, the most common cases referred to the Adjudication Panel, concerning a breach of the Code of Conduct, again, involve bringing the authority into disrepute.
- 3.17 Complaints regarding failure to register financial interests rarely require investigation. From April 2005, only 1% of the investigations concerned financial interests. In previous years, statistics show that financial interests have not always been this low; they were once a dominant area of complaint.
- 3.18 **Final Findings:** The Standards Board issues statistics for the outcome of their completed cases. Interestingly, in 60% percent of the cases investigated, it was held that no further action was required. Further, in approximately 15% of the cases it was found that no evidence of a breach of the Code of Conduct had occurred.

- 3.19 15% of cases investigated were referred for further investigation to the Adjudication Panel for England. The Adjudication Panel has a number of sanctions at their disposal up to and including disqualification of a member from holding office for up to five years. From analysing the statistics published by the Adjudication Panel, collective from January 2003 to present day, disqualification for one year was the most common type of sanction issued.
- 3.20 9% of cases were referred down to the Monitoring Officer for investigation.

#### **4. PART B – LOCAL TRENDS**

- 4.1 In 2005, five complainants submitted allegations of misconduct to the Standards Board against several local Councillors. However, some of these involved multiple allegations (see table below). It is important to recognise that no adverse implications should be inferred from the fact merely that allegations have been made; the evidence, and outcomes, demonstrate that the cases referred to were relatively minor in nature and none were substantiated.
- 4.2 The first complaint to be submitted alleged that five Town Councillors and three Borough Councillors used inappropriate conduct while acting in their non-official capacity and further to this, issued defamatory statements. Misconduct in a non-official capacity can often lead to a breach of the Code of Conduct but in this case the allegation was not sufficiently serious and legal redress should have been sought for the defamatory statements.
- 4.3 The second allegation of misconduct concerned both disrespectful behaviour, including verbal abuse and embarrassment, and disclosure of personal information by a Borough Councillor. No breach of the Code of Conduct was found to occur and the Standards Board decided that in all circumstances the alleged conduct (even if it were found to occur) would not have involved any failure to comply with the Code of Conduct.
- 4.4 Again, disrespectful behaviour was the alleged issue for case number three. Although, this disrespect centred on failure to reply to letters, requests to meet and non-attendance at meetings. However, this did not amount to a breach of the Code because the Standards Board considered that the complaint related mainly to the policies of the authority and specific conduct of officers, both of which do not fall within the jurisdiction of the Board.
- 4.5 The alleged misconduct in the fourth case related to failure to treat others with respect, which involved insulting behaviour, jeering and encouraging profanities. The complaint concerned six Parish Members and one Borough Councillor. This misconduct had the potential to be a breach under para. 2(b) of the Code of Conduct (failure to treat others with respect). However, the Standards Board commented that the conduct was not of a sufficient nature to warrant a publicly funded investigation.

- 4.6 On the same issue, a different complainant submitted a complaint against a Borough Councillor. Again, no breach of the Code materialised but the Standards Board stated, “Members are entitled to express their opinions even though it may be of variance with opinions of others but in doing so there is an expectation that members will treat others with respect”.
- 4.7 The emerging trend pattern shown by these cases is that a breach of the Code of Conduct did not occur in 2005. Seemingly, every case submitted was either outside the Standards Board’s jurisdiction or the **alleged** misconduct was not sufficiently serious to amount to a breach. Hence, in order to prevent misconduct and reduce submissions to the Standards Board, implications for the Council may include training for members on the Code of Conduct and examples of situations whereby a breach of the Code is likely to occur.

<b>Case</b>	<b>Type of Issue</b>	<b>Outcome</b>	<b>Implications</b>	<b>Review</b>
1	Conduct and written context	No breach of the Code of Conduct	Training on Code of Conduct and awareness of cases investigated by Standards Board (see 4.7)	No
2	Disrespectful behaviour and disclosure of personal information	No breach		No
3	Disrespectful behaviour	No breach		Yes Unsuccessful
4	Failure to treat others with respect	No breach		Yes Unsuccessful
5	Failure to treat others with respect	No breach		No

## 5. RESOURCE IMPLICATIONS

- 5.1 No specific financial implications have been identified.

## 6. CONSULTATIONS

- 6.1 The Council’s Management Team has considered this Report on 30<sup>th</sup> January 2006.
- 6.2 The Standards Committee are consulted on this report and their views will be taken into consideration.

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**Wards:** N/A

**Key Decision Validation:** N/A  
**Background Papers**

***The Standards Board for England – November 2005***

Annual Review: Efficiency, 2004-05  
Bulletin 26, November 2005  
Standards Committee News, issue 4, November 2005  
Town and Parish Standard, issue 5, November 2005  
The Case Review, number 3

***The Committee on Standards in Public Life – January 2005***

Tenth Report of the Committee on Standards in Public Life: Getting the Balance Right:  
Implementing Standards of Conduct in Public Life

**Additional Information Sources**

Standards Board Website - [www.standardsboard.co.uk](http://www.standardsboard.co.uk)  
Adjudication Panel for England – [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)  
Committee on Standards in Public Life – [www.public-standards.gov.uk](http://www.public-standards.gov.uk)

**Examination by Statutory Officers**

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>