

# Item 9

## REPORT TO STANDARDS COMMITTEE

8<sup>TH</sup> FEBRUARY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF MISCONDUCT AT NATIONAL AND LOCAL LEVEL - 2006

#### 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 2006 through to October 2006, and therefore cover only part of the calendar year.

- 3.2 **Number of allegations:** Since April 2006 the Standards Board received 1999 complaints in total compared to 2709 calculated for the same period of the previous year. 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 300 a month, however, the number of cases in June 2006 significantly decreased to 212 cases; there is no apparent reason for this decrease.
- 3.4 When making comparisons to statistics from previous years, it is interesting to note that the general trend indicates that the total number of complaints each year has increased. Surprisingly, this trend has not continued as the number of complaints submitted to the Standards Board for 2006 has decreased.
- 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 and fellow councillors still remain the prevalent sources.
- 3.6 Over half of the allegations received by the Standards Board were from aggrieved members of the public, however, this figure of 62% has decreased by 2% from 2005. Reasons for this decrease cannot be suggested, as it is not by a substantial amount.
- 3.7 The allegations submitted by fellow Councillors have been recorded at 32%. This is an increase of 4% from 2005. However, this is not surprising because in previous years complaints by fellow Councillors have risen in one year to 43%.
- 3.8 **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, the majority of investigations conducted by the Standards Board still involve Members of Parish/Town Councils.
- 3.9 The Standards Board in their July edition of the "Town and Parish Standard" focus on moving forward with Town and Parish Councils and current initiatives are taking place specifically in relation to individual Parishes. For example, where the Standards Board has concerns about the number of allegations received about a particular Parish, they will assess whether there may be ways, other than simply investigation of individual Members, of solving the problems. If so, the Standards Board will contact the key local people to discuss the development of an action plan. The action plan may involve specific training programmes, mediation services or other activities. It has already helped to develop local solutions in a number of areas to address deep-seated problems.
- 3.10 **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.

- 3.11 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.
- 3.12 This trend has continued in 2006; 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. Collectively, 49% of allegations fell into one of these two categories.
- 3.13 The Standards Board recognises the view expressed by some that only misconduct which relates to official duties should be regarded as capable of bringing the authority into disrepute. However, in line with the majority of views received during a consultation exercise, the Standards Board believe that the Code of Conduct should continue to cover certain behaviour outside of official duties, but should be limited to unlawful conduct. The Standards Board therefore proposes that the provision relating to disrepute in the original Code is clarified, so that only unlawful activities such as criminal or cautionable offences committed outside of a Member's official duties are subject to the Code. Civil matters or merely objectionable conduct in private will not be covered.
- 3.14 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.
- 3.15 **Final Findings:** The Standards Board issues statistics for the outcome of their completed cases. Interestingly, in 31% of cases no breach of the Code was evident and in 61% of cases no further action was taken.
- 3.16 **Local Investigation Statistics:** These statistics are based on the financial year 2005–06. Ethical Standards Officers referred 352 cases for local investigation, which is equivalent to 44% of all cases referred for investigation. Of those cases, the Standards Board received 202 reports back from local authorities. The following analysis is based on those 202 reports.
- 3.17 Monitoring Officers' following local investigations recommended that 117 of the cases should result in a breach of the Code of Conduct. However, 145 Standards Committees have met, and only 76 of them concluded that a breach of the Code had occurred. These figures include 9 instances where the Standards Committee disagreed with the Monitoring officer. In six cases, the decision changed to no breach, and in 3 cases it changed to breach.
- 3.18 There are wide ranges of sanctions available to Standards Committees ranging from an apology, through to censuring. Out of the 145 Standards Committee determinations the sanctions imposed varied, the most common being censuring with training and/or an apology, training, or suspension

combined with training. Although in 24 of the cases no sanction was imposed.

- 3.19 The Adjudication Panel in their Annual Report published the statistics for appeals against Local Standards Committee determinations. 18 applications were received to appeal against the determinations of local hearings by comparison with 8 in the previous year; this is an increase from 11% to 32%.
- 3.20 Of the 18 applications received, 11 were allowed to proceed, the remainder being refused either as disclosing no reasonable ground for appeal or because there was no prospect of an appeal succeeding.

#### **4. PART B – LOCAL TRENDS**

- 4.1 In 2006, 10 complainants submitted allegations of misconduct to the Standards Board against several local Councillors. However, some of these involved multiple allegations. 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 allegation submitted alleged that ten Town Councillors did not follow correct democratic procedure. The Standards Board concluded that the allegations did not disclose a potential breach of the Code because the Board only exists to monitor ethical conduct of individual Members, and does not have the jurisdiction to consider complaints relating to decisions of the authority as a whole, or the particular administrative procedures of authorities.
- 4.3 The second complainant alleged that a Borough Councillor failed to declare an interest. No breach of the Code of Conduct was found to occur and the Standards Board took the view that the information provided by the complainant was insufficient to make a decision as to whether it should be referred to an Ethical Standards Officer.
- 4.4 Again, the third case involved a Borough Councillor who allegedly failed to declare several interests. The Standards Board decided that there was sufficient evidence to refer this complaint to an Ethical Standards Officer. However, after investigation it was found that no breach of the Code had occurred and the Ethical Standards Officer was of the opinion that the matter did not require further action as the Member registered all memberships as soon as the matter was brought to attention.
- 4.5 The alleged misconduct in the fourth case related to failure to declare an interest by a Borough Member. The Standards Board decided not to investigate the complaint, as the information provided was insufficient to make a decision as to whether it should be referred.
- 4.6 The fifth complainant alleged that a Borough Councillor used their official capacity and Council resources to secure an advantage. However, no breach materialised as the Standards Board was of the opinion that the allegations fell outside their jurisdiction and would be better addressed by the appropriate bodies such as the police or the Council.

- 4.7 Allegation number 6 involved 3 Borough Councillors and 5 Town Councillors. The complainant alleged that certain Councillors had agreed to issue defamatory statements against another fellow Councillor. It was considered by the Board that the Councillors were not acting in their official capacity as elected Members. However, in some cases allegations concerning Members conduct in a private capacity can, in some cases, disclose a potential breach of the Code, although this was not considered to be the case in this instance. It was considered that legal redress would be the most appropriate course of action if the complainant wished to pursue the issue of defamation.
- 4.8 The alleged misconduct in the seventh case involved a Borough Councillor who allegedly engaged in disrespectful conduct. The decision of the Standards Board was not to investigate the complaint because from the information provided it was not clear whether the Councillor was acting in their official capacity as an elected Member when the alleged incident occurred. Notwithstanding this, in all circumstances, it was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the Authority's Code of Conduct. On the same issue, a different complainant submitted a similar complaint against the same Councillor but the findings of the Standards Board did not vary from the above.
- 4.9 The eighth allegation involved a Borough Councillor who allegedly acted in a disrespectful manner by embarrassing the complainant and revealed information of a personal nature about a third party. The Standards Board reviewed the background information to this case and it was not considered that the alleged disclosure of information amounted to a potential breach of the Code. However, it was acknowledged that such issues are emotive and may result in individuals making comments which others may consider disrespectful, although such conduct in this respect did not amount to a breach of the Code. 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.
- 4.10 The alleged misconduct in the ninth case involved a Borough Councillor who allegedly divulged confidential information. After taking account of the available information the Standards Board did not find that a breach of the Code had occurred.
- 4.11 The final case involves allegations of bullying and intimidation allegedly made by a Borough Councillor. The Standards Board decided that there was sufficient evidence to refer this complaint to an Ethical Standards Officer and is currently still under investigation.
- 4.12 The emerging trend pattern shown by these cases is that a breach of the Code of Conduct did not occur in 2006. 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 further training for members on the Code of Conduct and examples of situations whereby a breach of the Code is likely to occur.

## **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.

6.2 The Standards Committee are consulted on this report and their views will be taken into consideration.

## **7. OTHER MATERIAL CONSIDERATIONS**

7.1 All material considerations have been taken into account in the contents of this Report. In particular, risks may arise unless Members of the Council are fully appraised on standards matters.

## **8. OVERVIEW AND SCRUTINY IMPLICATIONS**

8.1 None apply.

## **9. LIST OF APPENDICES**

9.1 None apply.

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**Wards:** N/A

**Key Decision Validation:** N/A

### **Background Papers**

#### ***The Standards Board for England***

Bulletin 30, November 2006

Town and Parish Standard, issue 8, November 2006

#### ***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"/>

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