

Item 4

REPORT TO STANDARDS COMMITTEE

30TH OCTOBER 2008

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

AN ANALYSIS OF THE CURRENT TRENDS IN ALLEGATIONS OF MISCONDUCT AT NATIONAL AND LOCAL LEVEL – 1ST APRIL 2007 – 31ST MARCH 2008

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 for the period 1st April 2007 to 31st March 2008.
- 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.

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 following statistics cover the period from April 2007 through to March 2008.
- 3.2 **Number of allegations:** Since April 2007 the Standards Board received 3624 complaints in total compared to 3549 during the same period in 2006/2007.
- 3.3 The number of complaints averages approximately 300 a month.

- 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 increases, although in 2005/06 complaints did slightly decrease.
- 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 members of the public and fellow councillors still remain the prevalent sources.
- 3.6 More than half of the allegations (67%) received by the Standards Board were from aggrieved members of the public.
- 3.7 The allegations submitted by fellow Councillors have been recorded at 27%.
- 3.8 **Type of Authority (Investigations):** The Standards Board received complaints of misconduct from several different types of authority. Types of authority identified were, 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 involved Members of Parish/Town Councils.
- 3.9 **Nature of Investigations:** The areas of misconduct, reported nationally comprised of prejudicial interests, which made up 25% of the complaints, using position to confer or secure an advantage or disadvantage (12%), failure to disclose a personal interest (11%), bringing authority into disrepute (11%) and failure to treat others with respect (11%).
- 3.10 Comparing previous years statistics, the general trend pattern indicates that the two main areas of misconduct on a national scale are prejudicial interests and bringing the authority into disrepute, however, bringing the authority into disrepute is usually linked with other breaches of the Code of Conduct, rarely is it the sole breach.
- 3.11 In 2007/08 prejudicial interests was the area of misconduct identified by the Standards Board to frequently receive the highest number of complaints, 25% of allegations fell into this category.
- 3.12 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.
- 3.13 **Final Findings:** The Standards Board issues statistics for the outcome of their completed cases. Interestingly, in 33% of cases no breach of the Code was evident and in 58% of cases no further action was taken.

- 3.14 **Local Investigation Statistics:** These statistics are based on the financial year 2007/08. The Standards Board received a total of 530 reports, of which Ethical Standards Officers referred 291 cases for local investigation, which is equivalent to 55% of all cases referred for investigation.
- 3.15 Since 1st April 2007 there have been 8 appeals to the Adjudication Panel for England following Standards Committee Hearings.
- 3.16 Monitoring Officers, following local investigations, recommended that 423 cases resulted in a breach of the Code of Conduct, which is an increase on the previous year.
- 3.17 Findings from the Standards Committee determinations following investigations –
- 104 – no sanction
 - 102 – training
 - 100 – censure
 - 57 – apology
 - 2 – two week suspension
 - 21 – one month suspension
 - 7 – six week suspension
 - 16 – two month suspension
 - 20 – three month suspension

4. PART B – LOCAL TRENDS

- 4.1 In the period 1st April 2007 to 31st March 2008, 14 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.
- 4.2 The first complaint alleged that a Town Councillor failed to declare her position as a Councillor with an outside body. The Standards Board regulates the ethical dimension of councillor conduct rather than the validity of the judgements or decisions they make. The Standards Board took the view that a potential breach of the Code of Conduct was not disclosed and that the allegation should not be referred to an Ethical Standards Officer for investigation.
- 4.3 The second complaint concerned a Town Councillor relating to the publication of a letter in his local paper allegedly containing highly contentious issues. The Standards Board acknowledged that members were entitled to publicly express their views; and that they did not have jurisdiction to consider the accuracy of information that members may place in the public domain. The Standards Board took the view that no breach of the Code was disclosed and the matter would not be referred to an Ethical Standards Officer.

- 4.4 The third complaint concerned a Borough Councillor relating to the publication of an article in his local paper allegedly containing misleading statements. The Standards Board acknowledged that members were entitled to publicly express their views; and that they did not have jurisdiction to consider the accuracy of information that members may place in the public domain. The Standards Board took the view that no breach of the Code was disclosed and the matter would not be referred to an Ethical Standards Officer.
- 4.5 The fourth complaint related to a Borough Councillor making allegations against another Borough Councillor. The Standards Board conducted an assessment of the case and took the view that no potential breach of the Code of Conduct was disclosed and the matter would not be referred to an Ethical Standards Officer.
- 4.6 The fifth complaint related to a Borough Councillor making allegations against another Borough Councillor. The Standards Board conducted an assessment of the case and took the view that no potential breach of the Code of Conduct was disclosed and the matter would not be referred to an Ethical Standards Officer.
- 4.7 The sixth complaint was against three Town Councillors and their disrespectful conduct and unacceptable behaviour towards another member. The Standards Board took the view that there was insufficient evidence to make a decision as to whether the complaint should be referred for investigation.
- 4.8 The alleged misconduct by a Borough Councillor in the seventh case related to publication of a letter in a local paper which contained defamatory statements towards another member. After assessment, the Standards Board decided not to refer the complaint for investigation.
- 4.9 The eighth complaint concerned the alleged conduct of a Borough Councillor at a meeting as being unprofessional and inappropriate. After assessment, the Standards Board took the view that as the Councillor was acting in a private capacity no potential breach of the Code of Conduct was disclosed and that the matter would not be referred to an Ethical Standards Officer for investigation.
- 4.10 The ninth complaint was against two Councillors who were involved in alleged breach of copyright. After assessment, the Standards Board took the view that as the Councillors were not acting in their official capacities no potential breach of the Code of Conduct was disclosed and that the matter would not be referred to an Ethical Standards Officer for investigation.
- 4.11 The tenth complaint concerned the alleged misconduct of a Councillor relating to the publication of a letter in his local paper which contained false statements. After assessment, the Standards Board decided not to refer the complaint to an Ethical Standards Officer for investigation.
- 4.12 The eleventh complaint concerned the alleged misconduct of a Councillor in connection with a planning application. After assessment, the Standards Board decided to refer the complaint to an Ethical Standards Officer for

investigation. An investigation was carried out and it was concluded that “no action” be taken in respect of the matters which were the subject of this investigation.

- 4.13 The twelfth report concerned alleged disrespectful conduct to members of the public and failure to declare interests at meetings by a Parish Councillor. After assessment the Standards Board decided not to refer the complaint to an Ethical Standards Officer for investigation.
- 4.14 The thirteenth report concerned the alleged misconduct of a Borough Councillor in abusive and threatening behaviour. After assessment the Standards Board decided not to refer the complaint to an Ethical Standards Officer for investigation.
- 4.15 The fourteenth report concerned the alleged misconduct of a Borough Councillor in bullying and harassing behaviour. After assessment the Standards Board decided not to refer the complaint to an Ethical Standards Officer for investigation.
- 4.16 The emerging trend pattern shown by these cases is that from the fourteen cases submitted to the Standards Board, only one case has been referred to an Ethical Standards Officer for investigation. The Standards Board’s determination was that the alleged misconducts were not sufficiently serious to amount to a breach or occurred outside of the members’ official capacity. Hence, in order to prevent misconduct and reduce submissions of complaints, 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 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.

Contact Officer: Dennis A. Hall
Telephone Number: 01388 816166, Ext. 4268
E-mail address: dahall@sedgefield.gov.uk

Wards: N/A

Key Decision Validation: N/A

Background Papers
The Standards Board for England
 Bulletin 38, April 2008

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 type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input 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 type="checkbox"/>	<input type="checkbox"/>