

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No

Audit & Standards Committee - 22 November 2006.

Standards Board Bulletins

**Report of the Strategic Director of Performance &
Development**

Recommendation

That the Committee notes the publications issued by the Standards Board for England

1. Attached to this report is a copy of the latest Bulletins (numbers 29 and 30) issued by the Standards Board. The 'Standards Committee News' is no longer published and is now combined with the Bulletin. The Bulletin is issued as guidance to Monitoring Officers.

DAVID CARTER
Strategic Director of Performance & Development
Shire Hall
Warwick

18 October 2006

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We are working with local government practitioners, and stakeholders, to work out the detail of how we are going to develop our role as a strategic regulator.

Local authorities already carry out the majority of investigations. But as standards committees and monitoring officers continue to gain in confidence, the proportion will grow further. And when the required legislation is passed by Parliament, the job of receiving complaints from the public and deciding which ones to investigate will also devolve to the local level.

“ ethical standards are everyone's business ”

All of this will help to make the Code something that is really owned and operated at a local level. Our role will increasingly be to provide the sort of rigorous oversight that will give the public confidence that self-regulation is working.

We will also develop further the support and guidance that make the local focus possible. This month's launch of *The Case Alert* is part of that work.

Locally owned

Of course, none of this is really new. It has always been the intention that the Code should be as locally owned as possible.

But now that we have reached the stage where standards committees and monitoring officers can assume the responsibility for operating the machinery of the ethical framework the need for strong standards committee chairs, strong independent members and well resourced, supported monitoring officers is clear.

The argument that we need to win is that ethical standards are vitally important to the health of an authority. They are everyone's business.

David Prince, Chief Executive

Prejudicial interest test

When is an interest deemed "prejudicial"? In this article, we answer some of your concerns about how to determine whether a prejudicial interest is at play.

Paragraph 10 of the Code of Conduct for local authorities (paragraph 8 for parish councils) states:

"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."

It is very clear from this paragraph that in considering whether a member has a prejudicial interest, the test that should be applied concerns a theoretical member of the public, with knowledge of the relevant facts.

Members may, or may not, consider whether they themselves believe that their judgment of the public interest will be prejudiced. However, this is not the correct test to apply. Neither would it be the correct approach to canvass the views of members of the public to identify whether they actually consider the interest to be prejudicial. The correct approach is to consider what a reasonable member of the public would regard as prejudicial, knowing all of the facts.

The Code isn't a gag

The article in the last issue of the *bulletin*, titled *the Code isn't a gag*, explained our view that the Code of Conduct does not currently stop members from speaking about matters that interest them and in which they feel passionate. This article was so well received that we thought that it would be useful to go into more detail on the subject.

It is common ground that a councillor could have a conflict of interest in a matter being considered at the council when:

- he or she lives adjacent to an area of land being discussed
- the subject under discussion affects the home of the councillor's son or daughter
- the councillor owns the piece of land being discussed

The principle is that decisions and considerations at meetings should be made with impartiality and independence and free from possible influence of those who may have prejudicial interests, so as to preserve the public confidence in the authority and its decision-making.

So if you fulfil any of the above criteria, you should not take part in the consideration and decision on the matter, even though you may have the interests of the community at heart.

Lobbying guidance

A councillor with a personal and prejudicial interest would not, though, be prevented from making written representations to the council, setting out their views on the merits of the matter being considered.

However, they should avoid airing such views to individual members or officers of the council, so as to avoid the impression of improper influence in how those members or officers would make their decisions.

Our [lobbying guidance](#) provides further discussion on how a member with a personal and prejudicial interest could still have his or her say on a matter without breaching the Code.

Keeping an open mind

But you should also be aware of other principles that may apply to decision-making outside of the Code. Public confidence in decision-making is of the utmost importance in relation to both the Code and the common law principle of predetermination.

If your mind is closed to a matter before the meeting where that matter will be decided, and without having heard all of the arguments, you are likely to be considered to have predetermined the matter.

You should have an open mind before the decision is made, and make sure that you consider all of the views before coming to your own view.

If you show that you have already made your mind up before a meeting where all the relevant information is to be provided, you are likely not to be able to take part in the meeting. This is not by virtue of the Code, but by virtue of this common law principle. You may wish to consult your monitoring officer for further guidance on this.

Lobby and campaign groups

Councillors who are also members of lobby groups will need to carefully consider their position where their roles and responsibilities as a councillor may conflict with their involvement in lobby groups.

It is essential to strike a balance between representation, driving change and ensuring that an authority can even-handedly decide matters on their merits.

You should also declare a personal interest at a meeting of the council if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision. This is so that members of the public can be informed about the interests that may relate to your decisions.

Participation in the meeting will depend upon whether the interest is also prejudicial. Each case should be considered on its merits and specific circumstances taken into account.

But generally speaking, if the matter being considered relates directly to the lobby or campaign group, you are likely to be considered to have a prejudicial interest and so should not take part in the discussions. This would occur, for example, when the discussion is about whether to grant funding to your lobby group, or to approve a planning application submitted by the group.

However, consideration of matters that relate to the things a lobby group campaigns on or has expressed public opinions about, without affecting the operation of the lobby group directly, will be likely to have an indirect impact on that group and so a prejudicial interest may not arise.

In this case, you should consider the following:

- the nature of the matter to be discussed
- the nature of your involvement with the lobby or campaign group
- the publicly expressed views of the lobby or campaign group
- what you have said or done in relation to the particular issue

Further information

For further detailed discussion on any of the above, please go to our [lobbying guidance](#) which is available on the Guidance pages of the Code of Conduct section on our website at

www.standardsboard.co.uk

Clarity on standards and audit committees

There has been some confusion over the differing terms of reference between standards and audit committees. However, it is our view that a standards committee plays a unique statutory role within a local authority and that its responsibilities should not be confused with that of the audit committee.

It is also generally accepted that committees are more effective when they solely focus on their own defined areas of business. So it would be better practice for the standards and audit committees to be clear about their respective roles and responsibilities, and to be aware that there is a clear distinction in their terms of reference.

Scope of standards committees

Part III of the *Local Government Act 2000* requires standards committees to undertake the following functions:

- Give the council advice on adopting a local Code of Conduct
- Monitor the effectiveness of the Code of Conduct
- Train members on the Code, or arrange such training
- Promote and maintain high standards of conduct for members
- Help members to follow the Code

The Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003 has led to standards committees also having the responsibility for holding a local hearing following an investigation of misconduct and imposing sanctions. Many standards committees have taken on additional functions to increase their role within the local authority, but their key focus should remain on promoting the ethical environment.

Clarity of roles

The role of the audit committees is solely to oversee financial processes, audit and risk management. There is a need for clarity of roles, and for some protocol where committees co-exist.

It could also be possible that the committees would contribute to each other's work and/or undertake joint working and reporting on some issues, for which they both would have some responsibility, for example: risk management and monitoring corporate governance.

The Case Alert now launched

The first issue of *The Case Alert* is now available on our website at: www.standardsboard.co.uk

As discussed in the previous *bulletin*, *The Case Alert* will keep you regularly informed of noteworthy decisions made by standards committees, the Adjudication Panel for England and the High Court.

The Case Alert will analyse cases that set important precedents in interpreting the Code of

Conduct, as well as look at cases that help clarify existing case law.

The first issue examines a case from earlier this year involving decisions on personal and prejudicial interests and whether the rules on interests affect members' human rights.

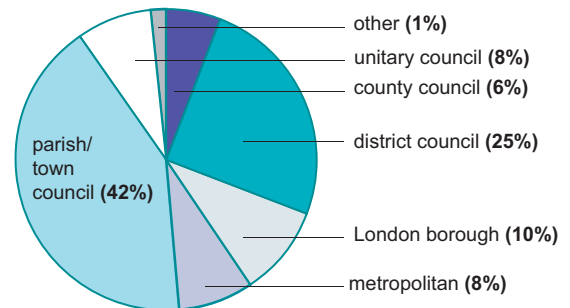
To read *The Case Alert* and to find out about subscribing, please go *The Case Alert* on our website at: www.standardsboard.co.uk

Referral and investigation statistics

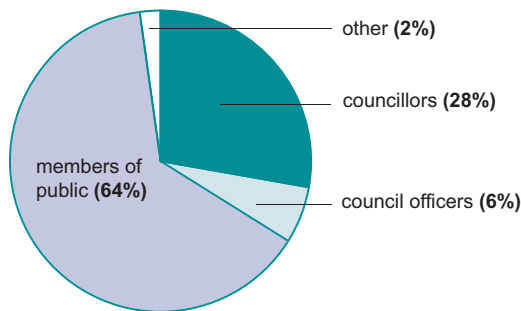
The Standards Board for England received 304 allegations in March, bringing the total number of allegations for the 2005-06 financial year to 3,836.

The following charts show referral and investigation statistics for that period.

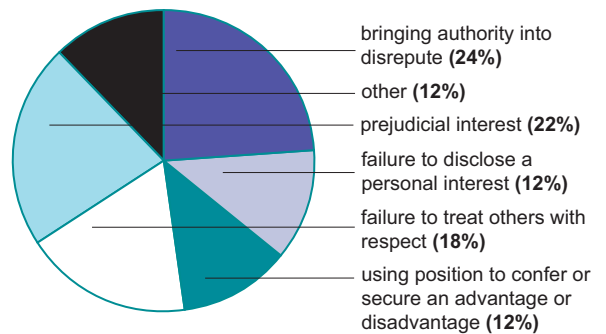
Authority of subject member in allegations referred for investigation



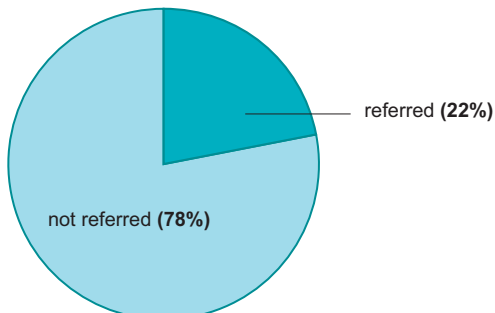
Source of allegations received



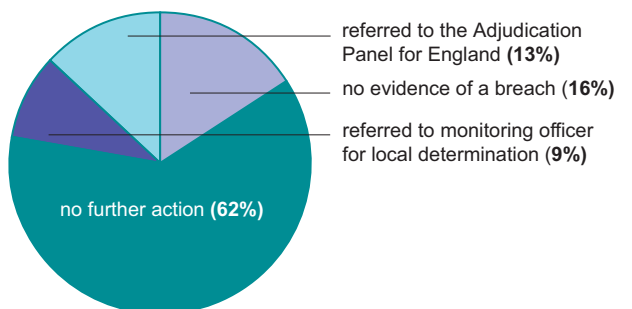
Nature of allegations referred for investigation



Allegations referred for investigation



Final findings



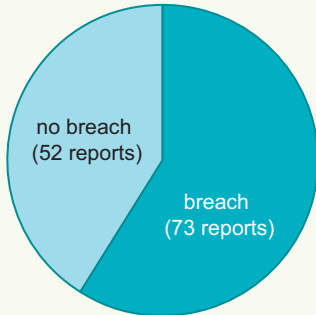
Presenting cases at the Adjudication Panel for England

Of the 77 cases that the Standards Board for England presented to the Adjudication Panel for England in the 2005-06 financial year, a finding was secured in 69 of those cases and a sanction imposed in 64 cases.

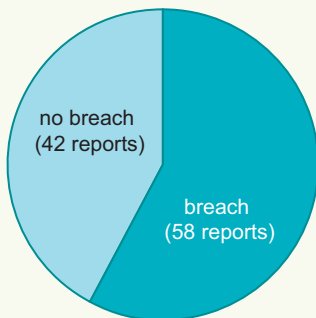
Local investigation statistics

For the financial year 2005-06, ethical standards officers referred 352 cases for local investigation — equivalent to 44% of all cases referred for investigation. Of those 352 cases, we have received 125 reports.

Monitoring officers' recommendations following local investigations



Of those 125 reports, 100 standards committees have met



These figures include six instances where the standards committee disagreed with the monitoring officer. They decided that in four instances the decision should be changed to 'no breach', and in two instances that the decision should be changed to breach.

Standards committee determinations



There have also been five appeals that went to the Adjudications Panel from local investigations.

Response to Lyons enquiry

We were recently asked to respond to the *Lyons Inquiry into Local Government* on how accountability at all levels of local government can be achieved.

The report proposes the devolution of decision-making on matters of public spending to non-elected members, officers and partnership organisations, in order to encourage greater local ownership.

We have suggested two ways to help to ensure that high standards of ethical behaviour continue to be met in any developed structure, based on a 'common standards for all' approach.

Our recommendations were as follows:

- councils and partnership organisations should agree on a set of values to abide by when matters regarding public money are discussed
- when decisions on public expenditure are made, those involved should have to sign up to the Code of Conduct already established for elected members in order that all those involved in the allocation of resources are seen to be accountable

The minister's proposal for a new Code of Conduct for officers is also welcomed as a further way of ensuring consistency of approach.

What makes an ethical authority?

As mentioned in *bulletin 26*, we've commissioned a team at the University of Manchester to conduct research into which components contribute to an ethical local authority.

The purpose of the project, *Identifying the components of an ethical environment*, is to identify the elements of an ethical environment, the relationships between them, and how they relate to the behaviour of officers and members.

The second stage of the project, during which data was collected from eight local authorities, has now been completed. And five key components of an ethical environment were identified as influencing an organisation's ethical environment.

Five key components

They are as follows:

- rules and trust
- leadership
- transparency and openness
- independent overview
- standards committees and adaptability

Findings from this research will be used to inform future work on the Comprehensive Performance Assessment and the ethical governance toolkit, so that stakeholders will be able to use them to help them develop and maintain a good ethical environment.

The full report and an effective practice guide will soon be available on the Research pages of the About Us section on our website at:

www.standardsboard.co.uk

Helping with training new members

In this time of transition, it's not always easy to know the best way to get new members up to speed on the ethical framework and their place within it.

So here we are highlighting some of our publications and guidance that should help monitoring officers as they plan their induction training for new members.

All of this material can be used as a training resource and you could even put some of it in new members' induction packs.

You can download these materials from the [Publications](#) section of our website at: www.standardsboard.co.uk

Publications downloads

- ***The Code to protect you***
An easy-to-follow guide to the Code and the requirements of members.
- ***How to make a complaint***
Guidance on making a complaint as well as the form that complainants use.
- ***What happens in an investigation?***
Information on how investigations are carried out.
- ***The Code in Practice workbook***
Useful for workshops, as it contains information on the Code and related scenarios for small group discussions.

Guidance downloads

We also publish the following [guidance](#) on our website:

- ***How do I register and declare interests, and register gifts and hospitality?***
Guidance on personal and prejudicial interests that also sets out our requirements for registering gifts and hospitality.
- ***Lobby groups, dual-hatted members and the Code of Conduct***
Guidance to members on declaration of interests when they are involved in lobbying or representing the authority on local bodies or organisations.
- ***Guidance on standards committees***
Guidance that sets out the structure and role of standards committees in dealing with complaints under the Code of Conduct, promoting and maintaining high standards of conduct in the authority, monitoring the effectiveness of the Code and granting dispensations.

For anything members need to know about the Code of Conduct, please direct them to the [Code of Conduct](#) section on our website.

Members may also wish to subscribe to some of our email publications such as the *bulletin* or the *Town and Parish Standard*. Both of these can also be found on the [Publications](#) section of our website at: www.standardsboard.co.uk

What else is on our website?

New members may also find be interested to know that our website contains [case summaries](#) of recent decisions, and news of [upcoming events](#) such as the [Annual Assembly of Standards Committees](#)

Links to all of the above can be easily found on the Home Page of our website at www.standardsboard.co.uk

Award winning DVD

Our interactive DVD has been awarded the prestigious Silver Screen Award at the International Film and Video Festival 2006.

The festival is described as the world's leading competition for business, television, documentary, industrial and informational productions and attracts entries from over 30 countries.

Our *Going Local: Investigations and hearings* DVD was singled out for its "uniformly high standard of quality" in the training and education category, and the award will be presented on 3 June.

Sir Anthony Holland, our chair, said:

"We are delighted that this film has received such high recognition and praise. It is testament to the hard work and efforts of all those involved in the project. It also emphasises the high standard of expertise, support and experience we can offer local authorities as we move into our new role as a strategic regulator."

What's on the DVD?

Going Local is a step-by-step guide to conducting a local investigation from the initial referral stage to the standards committee hearing. Over half of all investigations are now carried out at a local level and the film was developed to be an essential training tool, offering guidance to monitoring officers and standards committee members.

Learning points and commentary appear throughout the film, highlighting the key issues.

If you wish to buy a copy of this DVD, please contact claire.holyoake@standardsboard.co.uk

Bookings rise rapidly for conference

Half of all conference places for this year's Fifth Annual Assembly of Standards Committees — *Bridging the gap: towards effective local regulation* — have already been taken up, since booking opened at the end of March. Sessions are also filling up — so if you have yet to register for the conference, book your place now!

The conference, which takes place on 16 and 17 October at the ICC in Birmingham, is essential for all those working with the Code of Conduct and the ethical framework. And with the majority of speakers now confirmed, it is set to be one of the most informative and thought-provoking events in the local government calendar.

Senior figures set to speak

Joining keynote speaker, Phil Woolas MP, Minister for Local Government, will be senior figures from across the local government family including:

- Mirza Ahmad, Monitoring Officer, Birmingham City Council, and Lead Officer (Ethical Governance), Association of Council Secretaries and Solicitors (ACSeS)
- Janie Barrett, Chief Executive, Warwick District Council, and Chair, Society of Local Authority Chief Executives and Senior Managers' (SOLACE) Professional Matters Panel
- Kirsty Cole, President, ACSeS, and Assistant Chief Executive, Newark and Sherwood District Council
- Frances Done, Managing Director — Local Government, Audit Commission
- Steve Freer, Chief Executive, Chartered Institute of Public Finance and Accountancy (CIPFA)
- Barry Quirk, President, SOLACE, and Chief Executive, London Borough of Lewisham

Completing the line-up

From the world of local government commentary, we will be joined by Professor Gerry Stoker, University of Manchester, who will share his views of the key components of an ethical environment.

And following on from his widely acclaimed appearance in last year's conference debate — *Public confidence in your hands: mission impossible?* — Shaun Lowthorpe, Public Affairs Correspondent, *Eastern Daily Press*, returns once

again, this time to argue where the line should be drawn around the sensitivities concerning freedom of expression.

Sir Peter Soulsby MP, whose background includes 20 years' local government experience as both a local councillor and leader for Leicester City Council, joins this year's big debate panel to deliberate the pros and cons of local level governance.

In addition, delegates will benefit from hearing the views and experiences of a diverse range of monitoring officers, chairs of standards committees and other local practitioners who also join the line-up of confirmed speakers.

As if all that's not enough, a variety of other local government organisations are also hosting fringe events at the Annual Assembly, including a dedicated event for independent members.

And for those solicitors attending this year's conference, there is the added bonus of earning credits towards their continuing professional development (CPD), as the conference is now certified to count towards the Law Society's CPD scheme.

More information and to register

Visit our conference website at www.annualassembly.co.uk for more information and to reserve your place.

Complaints statistics

Here are the statistics on the speed with which we dealt with complaints, how many we referred, and the types of people who have complained to us during the last financial year.

Our Referrals Unit dealt with cases faster than they did in the financial year up to 2005, although the referral rate was lower. There was little change in the type of complainants, except that we heard from more members of the public than previously.

On average, we completed cases more than four days faster in the last financial year than in the previous one. The yearly turnaround time for 2004/2005 was 13.1 days, as against nine days for 2005/2006.

Similarly, almost three-quarters (73%) of cases were completed within ten working days in the last

year. This contrasts most favourably with the previous year when less than half (44%) of cases were completed during the same time period.

Yearly referral rate down

The yearly referral rate of 22% for 2005/2006 was slightly lower than in the preceding financial year (24%). This was because the monthly referral rates in July and October of last year, and January of this year, were particularly low.

In July of last year, we cleared a backlog of cases that contained a higher-than-normal proportion of non-referable cases. Then, in October of that year, we received three large multi-member complaints against a total of 184 members, none of whom were referred for investigation. Finally, in January 2006, we closed a higher than normal proportion of cases because the matters complained about were already under investigation.

More complaints from the public

There has been very little change in complainant type since the last financial year. The most significant shift has been a slight increase (+4%) in the proportion of complaints from members of the public, which has been offset by a corresponding decrease (-4%) in the proportion of complaints from members.

Complaints from members of the public made up over three-fifths (64%) of the complaints we considered during 2005/2006. However, we referred complaints from this category of complainant less often than from those who could be said to have specialist knowledge of our work.

Thus, we referred for investigation three quarters (75%) of monitoring officer complaints, over half (53%) of council officer complaints and almost half (45%) of parish clerk complaints. This compares to our referral of about a third (30%) of complaints from councillors and less than one-fifth (17%) of complaints from members of the public.

More complaints from London boroughs

The biggest shifts in authority type between this financial year and the last has occurred in district councils (-7%) and London boroughs (+5%). The proportion of complaints about parish councillors stayed relatively steady with only a 2% increase on 2004/2005. This shift is also reflected in the regional distribution of complaints, with a 5% increase in London-based complaints.

We are moving

As you probably know, the government has a policy of relocating central government jobs to the regions.

So in line with that policy, we will be starting the first phase of our relocation out of London this month. It begins with our Policy and Guidance team, led by Paul Hoey, which will begin working in Manchester from 19 June. Then other parts of the organisation are scheduled to move there at some point in 2007.

Staying in touch

The Policy and Guidance team will be moving into temporary offices in Manchester while we look for a permanent site for the whole organisation. But none of this should cause you any inconvenience.

You will still be able to contact the team. Just use the existing telephone numbers, as they will be automatically diverted to Manchester. And you can still send your post to the London office where staff will ensure it is delivered on to the team.

We aim to ensure that disruption to enquiries is kept to a minimum. But please bear with us if some take slightly longer to answer than normal during the second half of June.

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It was good to see so many familiar faces and meet new members and officers at our exhibition stand at the recent Local Government Association Conference in Bournemouth. Many visitors to the stand were interested, and pleased, to hear about the proposed changes to the Code of Conduct.

There were also a number of comments about the transfer of the system for assessing allegations to principal authorities. While most people welcomed the benefits of a local system, a number had concerns about managing the function and the problems that authorities will face if they have a large number of parish and town councils in their area. This is all helpful feedback and we will ensure we respond to it by focusing our work on supporting authorities at a local level with guidance and advice. We will also call for standards committees and monitoring officers to be properly resourced.

I will be on our exhibition stand at the three party conferences in September and October and look forward to talking to a lot more of you there, as well as, of course, at our annual assembly in October.

David Prince, Chief Executive

'Devolution and Evolution' - Annual Review published

The devolution of the responsibility for the ethical agenda, increased local ownership and the changing role of the Standards Board for England are the key themes addressed in our *Annual Review 2005-06*.

The review focuses on the shift in ownership of the conduct regime to a local level. The majority of cases are now being dealt with locally and the introduction of a system of local assessment of complaints is proposed for 2008. We are committed to increasing the number of investigations at a local level and providing training, support and guidance to local authorities to achieve this. The review details the change in our work as we become a strategic regulator, overseeing the ethical framework and encouraging responsibility at a local level to continue to grow.

The review also details our achievements over the past year, which include:

- A successful consultation and review of the Code of Conduct, now awaiting implementation by government
- The initial assessment time for complaints reduced to nine working days

- Effective partnership working with other local government organisations to develop an ethical governance toolkit for authorities to gauge their ethical performance
- The Fourth Annual Assembly of Standards Committees, which focused on greater local ownership of the ethical agenda

Copies of the *Annual Review* and our *Annual Report* are now available on our website www.standardsboard.co.uk

If you would like a hard copy of either publication please email publications@standardsboard.co.uk or phone 020 7378 5000

The referrals process — what type of complaints don't we refer?

The Standards Board for England is obliged to consider every complaint made to us in writing and decide whether to refer it to an ethical standards officer for formal investigation. This is the case for all complaints, including those that fall into the tit-for-tat, political point-scoring or vexatious categories. One purpose of the referral process is to filter out those that do not merit investigation on those grounds.

With plans for authorities to receive and filter complaints from 2008, we thought it would be useful to look at some of the other types of complaint that we have recently declined to refer for investigation.

Complaints about the council or council officers

We often receive complaints that are really about the council or the actions of officers. For example, there was a recent complaint against the leader of a London borough and the portfolio holder for housing. The complainant was concerned that security doors on the estate where he lives were not being repaired properly, yet residents were still being charged for the operation of the doors. He complained against the leader and the housing portfolio holder, as he had allegedly reported the problem to them but the issue remained unresolved.

In deciding not to investigate this complaint, we noted that the councillors had forwarded the complainant's concerns to appropriate officers. We also stated that the Standards Board cannot take a view on the efficiency with which a council

responds to service complaints or the quality of repairs undertaken by the council.

Another recent case that concerned the actions of officers rather than the conduct of individual councillors was a complaint that the chief executive of a district council had failed to countersign amendments to the members' register of interests. The complaint was against 39 members of the council, on the grounds that they had allegedly failed to ensure that the chief executive fulfilled the requirements of his office. We decided that the allegation did not disclose a potential breach of the Code of Conduct.

We frequently receive complaints that councillors have breached the Code of Conduct when in actual fact the substance of the complaint is about dissatisfaction with a decision taken by the authority as a whole. This can be seen in a recent complaint about play parks.

The complainant related his various concerns over a parish council's actions in respect of the play parks and stated that his complaint was against the chair of the parish council because, as chair, "he is responsible for all decisions and actions taken by the council". We did not refer this matter for investigation, as we do not have jurisdiction to investigate the merits of decisions taken by an authority and cannot hold individual councillors responsible for collective decisions.

Complaints about correspondence

Another common complaint that we generally do not investigate concerns members failing to provide a substantive response to correspondence. A recent example of this type of complaint was an allegation that a member of a London borough had failed to give a meaningful response to the complainant's many emails and that he had also decided to deal with future correspondence from the complainant under the council's vexatious correspondence procedure.

In deciding not to investigate this complaint we noted that councillors are entitled to invoke their authority's vexatious correspondence procedure if they feel it is appropriate to do so and it is not for the Standards Board to comment on the appropriateness of this decision. We also noted that the Code of Conduct does not require members to respond to every item of correspondence sent to them.

Complaints about pre-Code incidents

We often get complaints about actions that occurred before the Code of Conduct was adopted or before the individual in question was elected.

One case of this nature concerned recent publicity in the local press over a district councillor's conviction, 20 years ago, for the theft of a small sum of money. The complainant alleged that by being a convicted thief the councillor in question had brought his authority into disrepute. We noted that the Standards Board does not have jurisdiction over matters that occurred before the adoption of the Code of Conduct.

Monitoring local Investigations

We have looked at the outcome of a number of local investigations to try to assess how the local investigation process is going. We have now received 202 reports from monitoring officers and the percentage of complaints being referred for local investigation continues to rise. 61% were referred for local investigation in the last three months.

We looked at 50 reports, selected at random. Most (30) related to members of town and parish councils. In 40 cases, the authority undertook the investigations internally, with the monitoring officer conducting 17 of them, the deputy monitoring officer handling 10, and various other council officers doing 13. In four linked cases, the investigation was dealt with by way of a reciprocal arrangement; external solicitors or barristers handled another four cases; and two cases were completed by independent consultants.

“ It is important that careful thought is given to who carries out an investigation and the skills and resources needed to carry it out thoroughly. ”

We felt that the vast majority of reports demonstrated a clear presentation of the complaint, investigation and interpretation of the Code of Conduct. Only seven were not considered

of an appropriate standard. These investigations had all been carried out by officers other than the monitoring officer. It is important that careful thought is given to who carries out an investigation and the skills and resources needed to carry it out thoroughly.

A new approach to monitoring local investigations

Now that the local investigation of complaints has been underway for 18 months we have reviewed our approach to dealing with the issues that give cause for concern. In future:

- Within six weeks of referral, we will confirm with the monitoring officer that the investigation is underway, resolve any issues and enquire about the anticipated completion date. We will maintain contact with monitoring officers to ensure investigations proceed expeditiously.
- We will not comment on draft reports so that we are not seen to be an integral part of what is a local process.
- If we see minor problems in a report, we will refrain from commenting before the standards committee has met. We may then raise the matter informally with the monitoring officer after the standards committee has reached its decision.
- We will raise more serious matters with the monitoring officer before the standards committee has met to consider the report.
- We will contact the chief executive if we think there is a serious problem with the outcome of the standards committee hearing — for example, if there is a flawed interpretation of the Code of Conduct.
- We will refer any complaints we receive about the process of an investigation or a standards committee hearing to the council's corporate complaints procedure. If this does not resolve the matter, and it involves maladministration, the Local Government Ombudsman is the appropriate forum for redress.

There has been a very positive start to the investigation of complaints locally and they are generally being dealt with efficiently and effectively. The monitoring arrangements we have introduced should ensure that any concerns are dealt with at the right time in the most appropriate way.

Local case summaries?

Case summaries are one of the most effective ways we have of telling the standards committees, monitoring officers, journalists and the public about completed cases. The case summary section of our website receives over 11,000 separate visits per month.

We only publish full summaries of cases we investigate ourselves and just the basic details of local investigation outcomes. A number of monitoring officers and standards committee chairs have asked us to consider publishing full case summaries for cases investigated at a local level, so they can be used as a learning tool.

In order for us to be able to do this, we would need to ask local monitoring officers to prepare summaries following a template we would provide, so that we could publish the summaries on their behalf making it clear that they are written by, and are the responsibility of, the local authority concerned.

This is an issue we will ask our Board to consider, but in the meantime we would like to know your views on the subject.

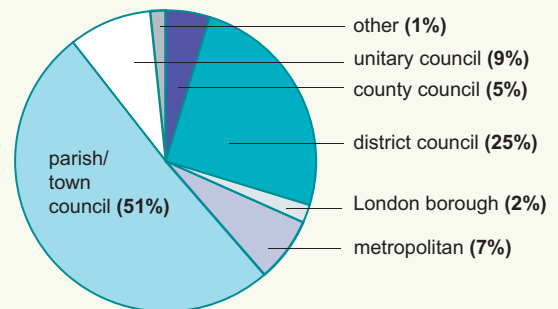
Please let us know by writing to stephen.callender@standardsboard.co.uk

Referral and investigation statistics

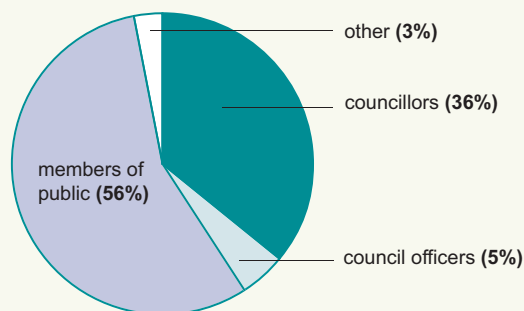
The Standards Board for England received 817 allegations between April and June 2006, compared to 951 during the same period in 2005-06.

The following charts show referral and investigation statistics for that period.

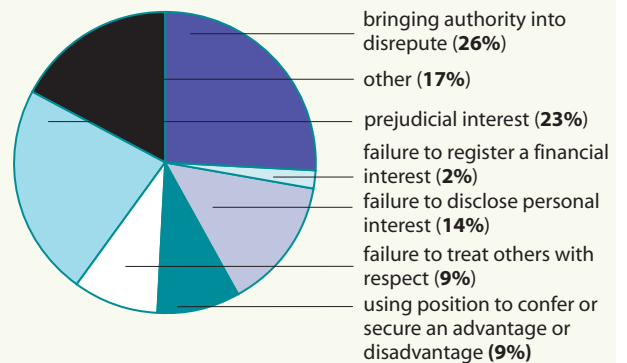
Authority of subject member in allegations referred for investigation



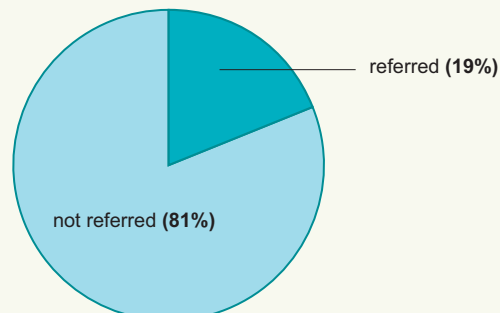
Source of allegations received



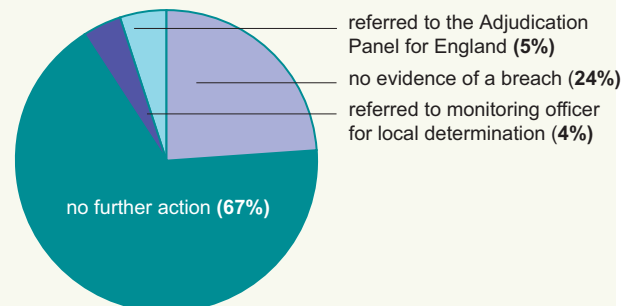
Nature of allegations referred for investigation



Allegations referred for investigation



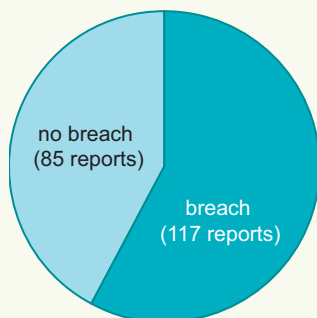
Final findings



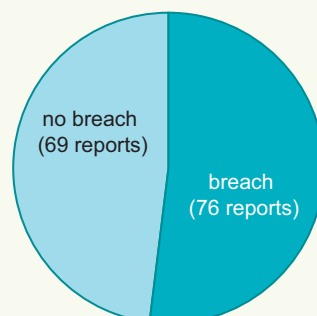
Local investigation statistics

For the financial year 2005-06, ethical standards officers referred 352 cases for local investigation — equivalent to 44% of all cases referred for investigation. Of those cases, we have received 202 reports.

Monitoring officers' recommendations following local investigations



Of those 202 reports, 145 standards committees have met



These figures include nine instances where the standards committee disagreed with the monitoring officer. In six cases, the decision changed to 'no breach', and in three cases it changed to 'breach'.

Standards committee determinations



There have also been eight appeals that went to the Adjudications Panel from local investigations.

Between April and June 2006, ethical standards officers referred 100 cases for local investigation — equivalent to 61% of all cases referred for investigation. All of these cases are still outstanding.

Forthcoming research: A snapshot of standards committees

You may soon be receiving a questionnaire, from the Association of Council Secretaries and Solicitors (ACSeS) and the Standards Board, which seeks to provide a snapshot of the role of standards committees and monitoring officers, and their views and experiences on a range of issues, including support and training.

BMG Research is conducting the research and the results will be presented at our Annual Assembly in October and detailed in further editions of this Bulletin and on our website.

The results will also inform the provision of future support for standards committees and monitoring officers, and will be shared with ACSeS.

For further information please contact:

Gary Hickey on 020 7378 5087 or at gary.hickey@standardsboard.co.uk

or Anna Sansom on 0121 333 6006 or at anna.sansom@bmgresearch.co.uk

Research on standards committees' role in providing an independent overview

We discussed the University of Manchester's research on the components of an ethical environment in Issue 29 of the *Bulletin*. The research also identified the differing roles of standards committees in providing an independent overview.

Three types of standards committee were identified by the research:

- The *lapdog* standards committee is ineffective at playing the regulatory role because of insufficient resources or inappropriate political influence.
- The *watchdog* standards committee focuses on the conduct of members and ensuring it is prepared for conducting a hearing.
- The *guide dog* standards committee not only fulfils its statutory obligations but also provides a supportive as well as a regulatory role. Such activities include a more general overview of training for members, responsibility for revising protocols, and wider organisational processes, such as providing an overview of whistle-blowing and complaints procedures.

Whether or not a standards committee takes on a wider remit depends on factors such as the existence of related committees (for example, audit committees and governance committees), the skills and experience of independent members, and the limits placed on the work programme by questions of democratic legitimacy and the need for independent members to maintain impartiality.

Standards of conduct can sometimes slip off the agenda when an authority has not experienced any problems. The research concluded that standards committees can help keep the ethical framework on the agenda by working to a programme, ensuring a training programme, and periodically assessing ethical conduct in the authority.

The final report on 'components of an ethical environment' is available on our website at: www.standardsboard.co.uk/Aboutus/Research/

Dealing with the press

A number of authorities have asked for our advice on handling the press in relation to cases being investigated at a local level.

Encouraging ethical standards should be part of the mainstream work of any authority. That is one of the reasons we believe press calls on local investigations ought to be handled by authorities' press offices. Local press officers are communications professionals who know how to respond to enquiries without being tempted or trapped into straying into comment or detail that is unhelpful to the authority or ongoing investigations. That said, they will need you to take a lead in setting a policy. The most important principle in dealing with press enquiries is to have a clear policy outlining what you will or will not say and to stick to it.

Here is our press policy on case related issues, and the reasons for it:

The Standards Board's press policy

We do not confirm or deny if we have received a complaint before we have decided if it will be investigated.

This is because anyone can make a complaint about anything and only about a quarter of the allegations that we receive are referred for investigation. This will not be an issue for authorities at the moment as the Standards Board makes the initial decision.

Information we disclose about complaints

Once a decision has been made about whether to investigate an allegation, we will disclose the following information:

- the name of the member
- the name of their authority
- if the complaint came from a member of the public or a member of the same authority
- the areas of the Code of Conduct to which the allegation refers
- the reason if a complaint is not being investigated
- if the complaint is being investigated by the Standards Board or by the local authority

This information is only given in response to press enquiries. We do not proactively publicise cases at

this point. This is because we do not want to encourage stories about alleged bad behaviour. At the same time we do not want to be secretive and unhelpful.

We use the areas of the Code to identify the issue because this is less inflammatory than describing the behaviour and enables the press officer to use one of a number of pre-set forms of words.

This information is only made available three working days after we have written to the complainant and person complained about. This is to ensure that all the relevant people are informed of our decision by us, instead of reading it in the local press.

It is worth remembering that some people making complaints will have spoken to their local papers already, sometimes even before they write to us. They have also been known to issue press releases. The Standards Board has always been concerned about the use of the system to gain political capital in this way. We have said as part of our report to ministers on the review of the Code of Conduct that we wish to explore options with central and local government about how such behaviour could be minimised.

In the meanwhile, bear in mind the possibility that your press office may seem to know less than the local paper. As ever, the best approach is to stick rigidly to the press policy of what can and cannot be said.

During an investigation

- If a case is referred for local investigation, we will tell journalists the name of the authority investigating the case and will refer all enquiries to them.
- If a case is investigated by an ethical standards officer from the Standards Board, we will repeat the information we have already given out, but not add to it.

Following the investigation

- If a case is investigated by the Standards Board and the ethical standards officer finds either that there is no evidence of a breach of the Code, or that there is no need for further action, we will prepare a case summary which will appear on our website. All enquiries will then be referred to the case summary and we do not comment further.

- If a case is referred to a tribunal or local standards committee hearing we confirm this and then make no further comment as the case is still ongoing.

Following a hearing

- If a local authority investigated a case, we refer enquiries to them. On completion of the local investigation we will produce a basic listing of the outcome and this will appear on our website.
- If a case is investigated centrally and then heard by a local standards committee, we will prepare a case summary based on the report of the hearing and make it available on our website. All press enquiries will be referred to the summary.
- If a case is heard by the Adjudication Panel for England, we will publish a summary on our website. The final hearing report will be available on the Adjudication Panel's website.
- In exceptional cases, we will issue a press release on the findings of hearings or tribunals. This is done if we believe that it is in the public interest to use the case to publicise a wider point such as the unacceptability of bullying.

Case summaries

Case summaries are an important part of our press policy. They enable us to agree an account of the case which we can check is accurate and provide adequate information for us to refuse to comment further. We currently only publish full summaries of cases we investigate ourselves, but there is a possibility that we may publish summaries of cases investigated locally in the future.

Talk to your local press officer

We believe it is important that standards committees and monitoring officers fully brief their own press offices so that they are fully prepared to deal with calls about investigations and hearings. They should also be empowered to argue for the benefits of ethical standards and the standards regime as well as to explain the process and answer any questions not related to specific cases.

The ethical agenda is about building public confidence in local democracy. Your local media is one of the key ways of reaching the public with that message.

Disclosing information gathered by ethical standards officers

We have recently been advised that a literal approach to section 63 of the *Local Government Act 2000*, which concerns the disclosure of information gained by ethical standards officers during their investigations, is likely to result in procedural unfairness.

Section 63 is essentially a data protection provision. Its aim is to prevent the unjustified disclosure of information obtained by an ethical standards officer about individuals during the course of an investigation. Its general purpose is therefore to complement the privacy rights of subject members and others. Many other regulators operate under a similar statutory provision.

Section 63 cannot be used to stop a member who is the subject of an investigation from disclosing information supplied by an ethical standards officer about themselves to others. But generally it does prevent a member who is the subject of an investigation from disclosing information supplied by an ethical standards officer relating to others. However, because of the *Human Rights Act*, it cannot prevent the member from using that information in order to legitimately prepare their defence against allegations.

Section 63 relates only to information gathered during an ethical standards officer's investigation by an ethical standards officer. It does not relate to views or opinions they may express or to information not gathered during an investigation.

This less restrictive interpretation is also supported by feedback gained from a number of cases considered by the Adjudication Panel for England.

Self-assessment survey in the ethical governance toolkit

The Audit Commission, the Improvement and Development Agency (IDeA) and the Standards Board have got together to develop an ethical governance toolkit. The toolkit is designed to help councils to assess how well they are meeting the ethical agenda and identify areas for improvement.

The toolkit consists of four elements:

- self-assessment survey

- full audit
- light touch health check
- developmental workshops

So far, 28 councils and over 2,000 members and senior officers have used the self-assessment survey.

Results to date reveal that members tend to have a more positive view of their council than do officers. Most members and officers agree that the way the ethical agenda is being managed in their authority is helping to build confidence in local democracy.

Most councils have appropriate arrangements in place in relation to the *Local Government Act 2000*, but some councils are more proactive than others in promoting the ethical agenda and high standards of behaviour. In many councils, standards committees have some way to go before they can be said to be making a positive difference. Training for members also needs to be improved.

Most council leaders and chief executives offer positive role models but there is room to improve trust among members and between members and officers. The results also show that whistle-blowing arrangements are inadequate in too many councils and the role of the monitoring officer in this area of work could often be enhanced.

For more information on the toolkit contact Alison Kelly at a-kelly@audit-commission.gov.uk or on 07759 723 943 or visit the [IDeA](#) website

New association for independent members to be launched at Annual Assembly

The Association of Independent Members of Standards Committees in England (AIMSce), is to hold its inaugural meeting at our Fifth Annual Assembly of Standards Committees. It is being set up by independent members to champion their role on standards committees and to represent their needs and interests, and will be launched at the fringe event, 'Independent members gaining a voice', on Monday 16 October.

"The need for a collective representation of independent members is becoming more and more evident as the need for such members increases," explains Bruce Claxton, chair of the AIMSce steering group.

"We are very excited to be launching the organisation at the Annual Assembly. It offers us an excellent opportunity to network with a wide audience of standards committee members and others from the local government family."

Other fringe events at the conference will cover a range of topics, from the proposed local assessment of allegations to the relationship between ethical governance and organisational culture. Those joining AIMSce in hosting fringe events include:

- the Association of Council Secretaries and Solicitors (ACSeS)
- the Improvement and Development Agency (IDeA)
- the National Association of Local Councils (NALC)
- the Society of Local Authority Chief Executives and Senior Managers (SOLACE)

More information on all of the fringe events — and the conference as a whole, including up-to-date speaker details — is available on the conference website at:

www.annualassembly.co.uk

Places at the conference are filling up fast, and we are set for a busy, action-packed event. Spaces at personally selected sessions are allocated on a first come, first served basis, so if you are planning on attending, make sure you register now by visiting the conference website.