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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](http://www.standardsboard.co.uk)

If you would like a hard copy of either publication please email [publications@standardsboard.co.uk](mailto: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.

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**“ 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. ”**

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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.

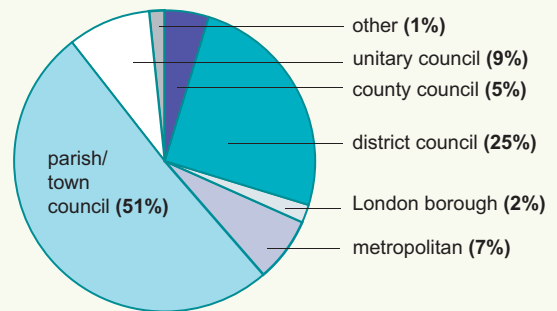
Please let us know by writing to [stephen.callender@standardsboard.co.uk](mailto:stephen.callender@standardsboard.co.uk)

## Referral and investigation statistics

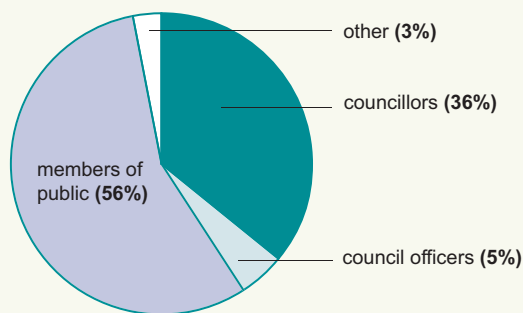
The Standards Board for England received 817 allegations between April and June 2006, compared to 951 during the same period in 2005-06.

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

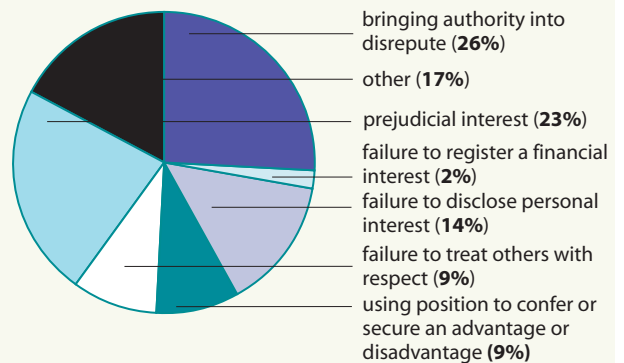
### Authority of subject member in allegations referred for investigation



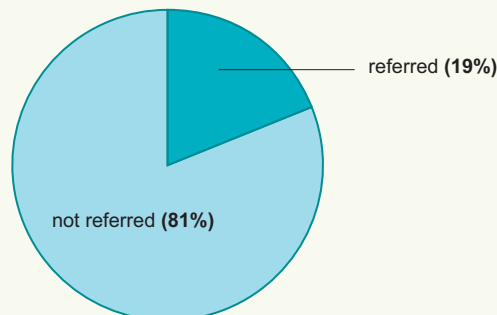
### Source of allegations received



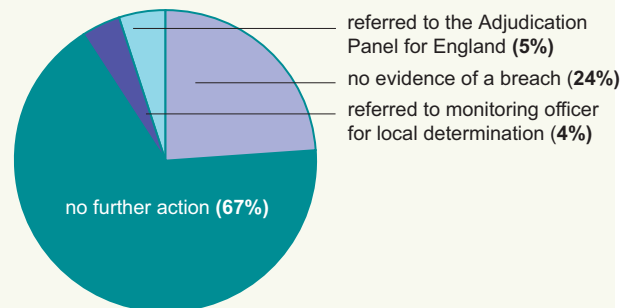
### Nature of allegations referred for investigation



### Allegations referred for investigation



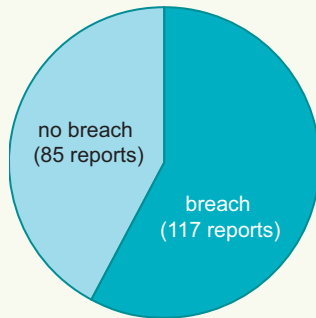
### Final findings



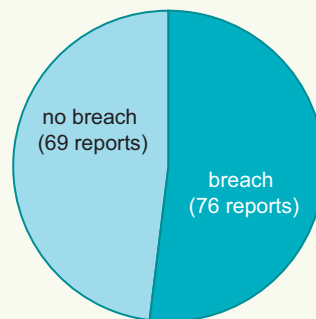
## Local investigation statistics

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](mailto:gary.hickey@standardsboard.co.uk)

or Anna Sansom on 0121 333 6006 or at [anna.sansom@bmgresearch.co.uk](mailto: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/](http://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](mailto:a-kelly@audit-commission.gov.uk) or on 07759 723 943 or visit the [IDeA](http://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](http://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.