

Contents

- 2 Prejudicial interest**
The Code isn't a gag
Guidance on interest
- 3 Standards and audit**
Best practice advice
- 4 *The Case Alert***
Now launched
- 5 Response to Lyons**
Our suggestions
- 6 Training new members**
Helpful publications
- 7 Latest on conference**
Places are going fast
- 8 Complaints statistics**
Faster turnaround
- 9 Moving news**

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.

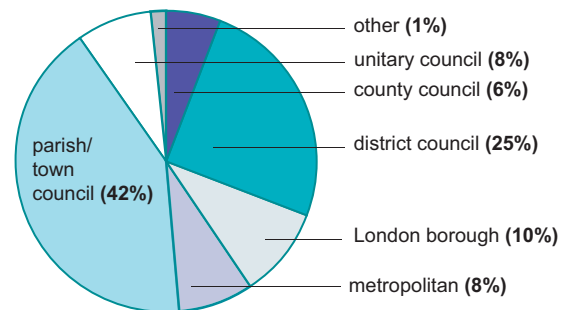
To read *The Case Alert* and to find out about subscribing, please go *The Case Alert* on our website at: www.standardsboard.co.uk

Referral and investigation statistics

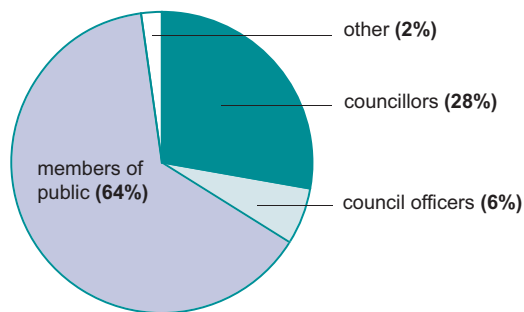
The Standards Board for England received 304 allegations in March, bringing the total number of allegations for the 2005-06 financial year to 3,836.

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

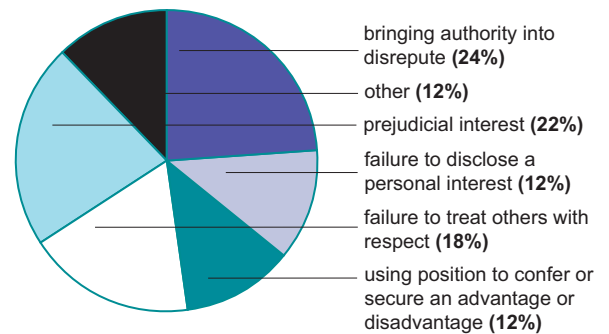
Authority of subject member in allegations referred for investigation



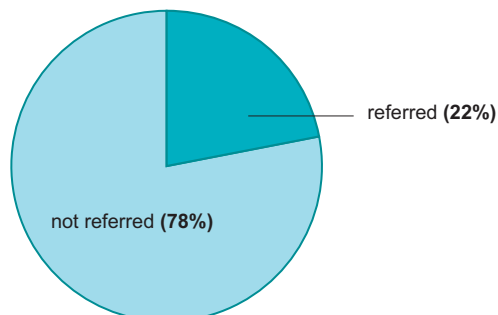
Source of allegations received



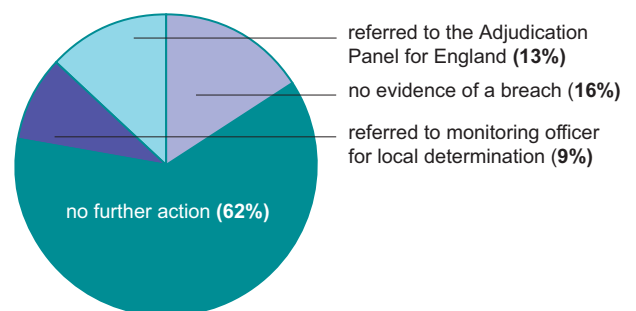
Nature of allegations referred for investigation



Allegations referred for investigation



Final findings



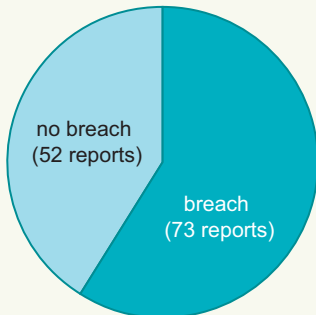
Presenting cases at the Adjudication Panel for England

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.

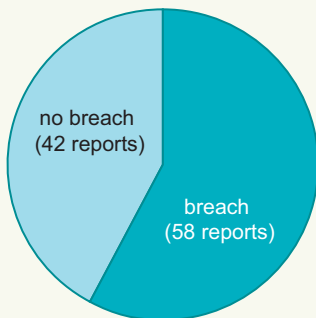
Local investigation statistics

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.