

# STANDARDS COMMITTEE AGENDA



**Tuesday 22 April 2008**

**at 4.00pm**

**in Committee Room A,  
Civic Centre, Hartlepool**

MEMBERS: STANDARDS COMMITTEE:

Councillors R W Cook, Griffin, Laffey, Preece, Shaw, Turner and Wallace

Co-opted Members: Mr K Fisher and Mr B Gray.

Parish Councillor Ray Gilbert, Elwick Parish Council

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **TO CONFIRM THE MINUTES OF THE MEETING HELD ON 19 FEBRUARY 2008**
4. **ITEMS FOR CONSIDERATION**
  - 4.1 Setting High Ethical Standards – Audit 2007-08 (*Acting Chief Solicitor*)
  - 4.2 Seventh Annual Assembly of Standards Committees - (*Acting Chief Solicitor*)
  - 4.3 Local Assessment – The Revised Framework (Verbal Update) (*Acting Chief Solicitor*)
  - 4.4 Standards Board for England – Bulletin 37, February 2008

# **STANDARDS COMMITTEE**

## **MINUTES AND DECISION RECORD**

19<sup>th</sup> February 2008

The meeting commenced at 4.00 p.m. at the Avondale Centre, Hartlepool

**Present:**

Mr Keith Fisher (In the Chair)

Councillors Rob Cook, Arthur Preece, Jane Shaw and Mike Turner.

Officers: Peter Devlin, Legal Services Manager  
Jo Wilson, Democratic Services Officer  
Sarah Bird, Democratic Services Officer

### **15. Apologies**

Apologies for absence were received from Councillors Sheila Griffin and Pauline Laffey and Co-opted member Mr Barry Gray.

### **16. Declarations of interest by members**

None.

### **17. Confirmation of the minutes of the meeting held on 30 October 2007**

Confirmed subject to the inclusion of apologies for Councillor Jane Shaw and Mr Keith Fisher.

### **18. Local Assessment by Standards Committee – Consultation Paper and Checklist** *(Chief Solicitor)*

The Legal Services Manager presented a report inviting Members views arising from a consultation paper issued by the Department for Communities and Local Government relating to local assessment by Standards Committees and inviting Members to consider a checklist issued by the Standards Board for England to ensure readiness for implementation of new powers which could take effect on or after 1<sup>st</sup> April 2008. The date for responses to the consultation paper was 15<sup>th</sup> February but the Department for Communities and Local Government had indicated that they would be prepared to extend this deadline to 22<sup>nd</sup> February, given the date of the Standards Committee meeting. Members were asked to familiarise themselves with the consultation

paper and then address a number of questions raised within it. The Chief Solicitor had offered guidance on these matters to Members within the report.

The Chair indicated that he had read through all of the Chief Solicitor's recommendations and was happy to endorse them all. This view was supported by Members. The Chair also indicated that he personally appreciated the careful and detailed consideration afforded by the Solicitor in the preparation of his recommendations. The Legal Services Manager advised therefore that he would replicate the information contained within the report to Members and forward it on to the Department for Communities and Local Government.

### **Decision**

That the agreed response to the consultation paper be forwarded to the Department for Communities and Local Government.

## **19. Any other items**

The Legal Services Manager advised Members that advertisements seeking Independent Members of the Standards Committees for the Council and the Cleveland Fire Authority would shortly be placed in the Hartlepool Mail, Evening Gazette and Northern Echo. They would also appear on the Council's website. Concerns were raised by Members that this may not be a wide enough distribution and whether it would be possible to place the advertisement in Hartbeat magazine as this was delivered to all homes in Hartlepool. The Legal Services Manager indicated he would make enquiries as to the publication deadline for the next edition. The Chair asked that in future advertisements of this type could be planned in advance in order to ensure print deadlines were not missed.

Further to the previous discussion Members asked that any new Members of Standards Committee be given the appropriate training. The Legal Services Manager advised that training would be provided, both to new Members and to existing Members particularly upon any guidance or changes through regulations that appeared to be forthcoming upon matters concerning local determination of complaints. Accordingly, future training events would be investigated.

KEITH FISHER

CHAIRMAN

## STANDARDS COMMITTEE

22nd April, 2008



**Report of:** Acting Chief Solicitor

**Subject:** SETTING HIGH ETHICAL STANDARDS – AUDIT  
2007-08

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### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to invite the Committee to consider the draft Performance Summary report initiated through the Audit Commission and entitled “Setting High Ethical Standards – Hartlepool Borough Council (Audit 2007-08)”. Members are asked to consider the appended document and in particular the “Action Plan” together with the commentary as indicated therein.

### 2. BACKGROUND

- 2.1 On the 31st October, 2007, the Committee considered a report submitted by the Chief Solicitor entitled “Corporate Assessments Report – Proactive Standards Committee”. Members of the Committee were invited to respond to the Audit Commission’s Corporate Assessment Report as issued in March, 2007. In the main, this report sought to address “capacity” including work with partners, and what the Council was endeavouring to achieve.
- 2.2 Members may recall that the report indicated that the “Standards Committee is not proactive”. However, this particular issue which was raised alongside the operation within the Council of the “Administration Group”. Members in their consideration of this report noted that the present Standards Committee were necessarily “reactive” given its particular remit. Clearly, this situation is liable to change in the light of the local assessment and determination procedures to be operated within the revised ethical framework. The remit of the Standards Committee is set out in Article 9 of the Council’s Constitution and comprises the following rules and functions;
- (i) *promoting and maintaining high standards of conduct by the Mayor, Councillors, co-opted members and church and parent governor representatives;*

- (ii) *assisting the Mayor, Councillors, co-opted members and church and parent governor representatives to observe the Members Code of Conduct;*
- (iii) *advising the Council of adoption or revision of the Members Code of Conduct;*
- (iv) *monitoring the operation of the Members Code of Conduct;*
- (v) *advising, training or arranging to train the Mayor, Councillors, co-opted members, church and parent governor representatives on matters relating to the Members Code of conduct;*
- (vi) *granting dispensations to the Mayor, Councillors, co-opted members, church and parent governor representatives from requirements relating to interests set out in the Members Code of Conduct;*
- (vii) *dealing with any reports from the Case Tribunal or Interim Case Tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer; and*
- (viii) *the exercise of (i) and (vii) and both in relation to the Parish Councils wholly or mainly in its area and the members of those Parish Councils.*

2.3 Members are asked to consider the draft report as annexed herewith with detailed consideration of the “Action Plan” and the commentary and timeline provided through the responsible Officer, in the main the Council’s Chief Solicitor.

### **3. RECOMMENDATIONS**


3.1 That the Committee considers the attached draft report and accompanying “Action Plan”.

Annual Audit and Inspection Letter

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Last saved: 03/04/2008 14:54:00



# Hartlepool Ethical Standards

**Hartlepool Borough Council**

**Audit 2007-2008**

- Audit Commission descriptor to be inserted by Publishing-

Document Control

Author George Clark

Filename Hartlepool Ethical Standards

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# Contents

Introduction and background	4
Audit approach	4
Main conclusions	5
Detailed findings	6
Ethical standards and compliance	6
Code of Conduct - behaviour and culture	8
The way forward	10
<b>Appendix 1 – Action Plan</b>	<b>11</b>

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## Introduction and background

- 1 There is an increased emphasis on councillor standards and conduct in public life. The findings of the Committee on Standards in Public Life, the Local Government Act 2000 and the introduction of the Standards Board for England (SBE) are all factors in the current weighting given to the need for strong ethical governance in local councils. The Chief Executive of the Standards Board for England also reinforced this in his November 2006 letter to local authority chief executives where he stressed the roles of chief executives and leading councillors in influencing organisational culture and supporting the ethical environment.
- 2 High ethical standards are the cornerstone of good governance. They are an integral part of good corporate governance arrangements and can lead to increased confidence in local democracy.
- 3 Setting high ethical standards is an important building block for councils in developing their community leadership role and improving services to the community. Councils are also becoming involved in increasingly complex partnerships and a decline in high standards may adversely affect these arrangements.
- 4 Local authorities and individual councillors now face a number of risks, including:
  - referral to, and investigation by, the SBE for alleged breaches of the Code of Conduct, sometimes leading to the disqualification of councillors;
  - loss of confidence in individual councillors, councils and local democracy; and
  - poor decision-making.
- 5 Ethical governance is an area of great interest to the national and local press, particularly when things go wrong. When things go wrong and councillors are found guilty of a breach of the Code of Conduct there is a risk to the reputation of individuals and of the council. The consequent difficulties of having to implement widespread changes whilst under the spotlight cannot be overestimated.

## Audit approach

- 6 The objective of this review was to assess whether Hartlepool Borough Council's (the Council's) arrangements for maintaining high standards of ethical behaviour are well understood by councillors and senior officers and are complied with.
- 7 We specifically looked at whether:
  - Councillors are complying with the Code of Conduct on Member behaviour; and
  - the Standards Committee is playing an appropriate and proactive role.

- 8 The audit consisted of an on-line survey of councillors and officers. The on-line survey is a national questionnaire, which has been completed by over 50 councils. The Commission has more than 4,000 responses to the survey in its database.
- 9 We issued the survey to all councillors and senior officers of the Council and it was completed between October and November 2007. Returns were received from 19 councillors (out of 48) and 16 officers (out of 24) giving an overall return rate of 48.6 per cent. Nationally this is considered a good return which is statistically valid to draw appropriate conclusions.
- 10 This report covers our findings from the survey. No other audit work, such as interviews with councillors and officers was undertaken.

## Main conclusions

- 11 Key points arising from the survey are:
  - Awareness of the ethical agenda by both councillors and officers of Hartlepool Borough Council is strong. Responses in general were much more positive than national average in most areas;
  - Leadership shown by councillors and senior management, including trust and communications, is generally positive with both the leader and Chief Executive perceived as being proactive and role models in terms of ethical behaviour;
  - Senior Officers were in general more positive across all areas of the survey with only minor awareness issues to be addressed;
  - Councillors and officers are generally positive about accountability, management of standards, team working and partnership working;
  - Councillors and officers are relatively positive about relationships, particularly when it comes to trusting each other
  - There is clarity among councillors regarding the Members' Code of Conduct, but not about when an interest should be entered in the Members' register;
  - Councillors and officers are not positive about the role of the Standards Committee and its impact on the ethical agenda or that it adds value to the Council; and
  - Councillors were negative about the levels of training they are receiving in some key national policy areas. More of a concern is the level of councillors and senior managers who expressed they didn't know whether they had received training in these areas
- 12 The detailed findings are set out below. The percentages quoted relate to the percentage of respondents to the survey, rather than of total councillors and senior officers to whom the survey was distributed. It should also be noted that on a number of occasions a number of councillors chose not to answer the question.

## Detailed findings

### Ethical standards and compliance

#### Code of Conduct - compliance

- 13 Councillor and officer responses to questions about the Code of Conduct were generally positive and much higher in many cases than the national average.
- 14 All councillors are very clear that a Code of Conduct has been adopted and that they have agreed to abide by it. The Council's communication about its Code of Conduct has therefore been well distributed and understood.
- 15 Councillors and senior officers are less clear on the action they must take if they become aware of conduct which they believe is a failure to comply with the Code. When compared to the national average, a significantly higher percentage of Hartlepool councillors and officers responding knew they should inform the monitoring officer (94.7 and 93.8 per cent respectively).
- 16 They were less clear about whether they should make a written allegation to the SBE (10.5 per cent said no and 10.5 per cent said they did not know but 36.9 per cent did not answer the question). This represents a gap in the knowledge of some councillors which may hinder the Council's approach to ensuring high standards of ethical governance. The Council has subsequently re-issued the new code, which does not include the requirement to make a written allegation to the SBE.

#### **Recommendation**

**R1**

*Ensure councillors are confident in the actions they should take as individuals if they become aware of conduct by a councillor that may be in breach of the Code.*

- 17 Councillor responses to the Standard Committee were generally negative with only 21.1 per cent agreeing strongly that it was making a positive difference and adding value to the Council. There was stronger awareness amongst senior officers of the work and processes of the Committee. In responses from both councillors and officers there was a lack of awareness of whether the Standards Committee had a forward plan of work

#### **Recommendation**

**R2** *Standards Committee needs to raise its profile and to ensure both councillors and senior officers are fully aware of the role, operation and effectiveness of the Standards Committee. The Committee should consider preparing and issuing an annual report in which it can clearly outline its achievements for the year.*

- 18 A high percentage of councillors (47.4 per cent) do not know whether the Council has a whistle blowing policy and as a result a relatively high percentage (21.1 per cent) lack clarity on how clear the policy is. This represents a gap in the knowledge of some councillors, which again may hinder the Council's approach to ensuring high standards of ethical governance.

**Recommendation**

*R3 Ensure all councillors are made aware of the whistle blowing policy and are clear on its purpose, content and process for its use.*

- 19 There is a mixed perception on whether the Council's approach to promoting high ethical standards is helping to build the public's confidence in local democracy. Only 53 per cent of members feel this is the case (significantly below the national average) but more positively, 68.8 per cent of senior officers feel this is the case (just above the national average).

**Recommendation**

*R4 The Council needs to establish the reasons for this relatively poor perception of its role in promoting high ethical standards and implement appropriate actions*

## Training

- 20 Councillors responded negatively on the level of training they had received on key national issues. In all cases the responses are below the national average - in some cases, over half of the respondents had not received training on key issues such as Human Rights Act 1998 or Race Relations (Amendment) Act 2000. Senior officers however responded much more positively where as high as 94% said they had had relevant training. Of concern however is the relatively high number of respondents, both councillors and senior officers, who said they did not know whether they had been trained or not.

**Recommendation**

*R5 The Council needs to consider ways in which it can actively engage councillors in attending training when it is offered. It may like to consider a different approach by issuing simple, easy to understand briefing notes and signposting councillors to the full document for further research if necessary, or the use of e-learning packages which are available on these key national issues.*

## Conflicts of interest

- 21 Nearly all councillors responding to the survey were either "very clear" or "fairly clear" about what constitutes a conflict of interest. There is less clarity about which organisation's internal rules prevail if they are appointed to represent the Council on an external body and the rules conflict. Councillors were clear about the existence of the members' register of interest and the need to record their interests.
- 22 Awareness of when an interest should be registered is not as strong. For example, 21.1 per cent of councillors felt they did not need to register if they were in a management position of a private company and 52.6 per cent did not feel they had to register an interest in the members' register that they are a member of a freemasons lodge and a further 15.8 per cent did not know.

### Recommendation

*R6 The Council should reconsider the way it ensures councillors understand the circumstances in which they must register an interest and the process for doing so to minimise the risks to councillors and the Council.*

- 23 Members were quite clear on the action they have to take if they have a prejudicial interest in a matter with 89.5 per cent saying they would leave the room when the matter is being discussed. However 21.1 per cent said they would seek to influence a decision about the matter and 1.5 per cent did not answer the question

### Recommendation

*R7 The Council should explore whether councillors are clear on their responsibilities and actions to follow when they have prejudicial interest in a matter, or whether they misunderstood the question and the response does not reflect reality.*

## Code of Conduct - behaviour and culture

### Leadership

- 24 Councillors and officers are more positive about the leadership shown by their respective peers than nationally.
- 25 A relatively low percentage of councillors and officers (5.7 per cent) consider that they are always a focus for positive change and 42.9 per cent consider them as usually being a focus for change. High levels of respect were expressed both; councillors to officers (85.7 per cent always and usually) and officers to councillors (94.3 per cent always and usually). Councillors and senior officers also expressed high levels of respect to customers and users of their services.
- 26 Councillors responded positively that felt they used public funds and council property and facilities responsibly and performed their duties with honesty, integrity, impartiality and objectivity.

- 27 Councillors and officers are positive about the leadership and role model shown by both Mayor and the Chief Executive in terms of ethical behaviour. Responses were substantially more positive than nationally.

### Communications and access to information

- 28 Communications of the ethical agenda to the public is good with only 68.6 per cent of members and 74.3 per cent of officers feeling the importance of high ethical standards was being well communicated.
- 29 Communications between councillors and between councillors and officers was very positive and higher than the national average in all areas.
- 30 Although positive about the public's ability to access information there was a proportion of respondents who did not know whether the public can easily access the register of members interest or documents relating to Standards Committee.

#### **Recommendation**

*R8 The Council needs to address this lack of awareness about public accessibility to appropriate documents*

### Relationships

- 31 Overall, relationships between councillors and between councillors and officers are generally strong, often above national averages. However 17.1 per cent of respondents felt members rarely trusted each other;

### Whistle blowing

- 32 37.1 per cent of respondents do not know whether the Council's whistle blowing policy is being used effectively and without fear of reprisal. This is a major gap in knowledge and weakens the ethical framework.

#### **Recommendations**

*R9 The Council should increase awareness of the whistle blowing policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.*

### Team working, co-operation and partnership working

- 33 Councillors and officers work well together to achieve the Council's common goals.
- 34 Both councillors and officers generally rate the Council's partnership working highly. A higher proportion than nationally agree that the Council always or usually works well with voluntary and community groups and statutory partners to achieve common goals, and generally has positive working relationships with partners and the wider community.

## The way forward

- 35 The findings of the survey and the recommendations will be discussed with officers and lead councillors. The Council is asked to consider the report and the recommendations that arise from it. The plan included with this report outlines the actions that the Council is recommended to take to strengthen current arrangements. The Council should complete the action plan by responding to the recommendations, assigning responsibilities for implementation, setting targets and then ensuring that it monitors that the recommendations are followed through.
- 36 The report will then be finalised. We would be pleased to continue to work with the Council as it moves forward with this agenda, perhaps through undertaking a full audit in the Council, facilitating workshops or through presentations to identified or established groups and networks.
- 37 We would like to take this opportunity to thank the many councillors and officers who contributed to this work.

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## Appendix 1 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
6	R1 Ensure councillors are confident in the actions they should take as individuals if they become aware of conduct by a Member that may be in breach of the Code	2	Chief Solicitor		Include specific instruction in annual induction courses and update training, supported by written advice to all members.	May/June 2008 and ongoing
6	R2 Standards Committee needs to raise its profile and to ensure both councillors and senior officers are fully aware of the role, operation and effectiveness of the Standards Committee. The committee should consider preparing and issuing an annual report in which it can clearly outline its achievements for the year.	2	Chief Solicitor		Host a Standards Committee 'Open Day' with presentation on Standards Committee role, procedures and ancillary information. Invite comments from members and officers on Standards Committee Role and review role in light of comments.  Provide annual report	Summer 2008  Spring 2009
7	R3 Ensure all councillors are made aware of the whistle blowing policy and are clear on its purpose, content and process for its use.	2	Chief Solicitor		Review Whistleblowing Policy  Circulate revised policy with commentary to all members	July 2008  Following review
7	R4 The Council needs to establish the reasons for this relatively poor perception of its role in promoting high ethical standards and implement appropriate actions	3	Chief Solicitor		Include in Standards 'Open Day' as above Engage members of Standards Committee in Tees Valley network with members from other authorities.	Summer 2008.
7	R5 The Council needs to consider ways in which it can actively engage councillors in attending training when it is offered. It may like to consider a different approach by issuing simple easy to understand briefing notes and signposting councillors to the full	2	Chief Personnel Officer		1. Annual development profile reviews to identify development needs, set targets, determine preferred delivery method. 2. Members ICT roll-out programme includes ICT skills development. 3. e-learning packages available through intranet (externally/internally produced)	Annually  Ongoing  Ongoing

## 12 Hartlepool Ethical Standards | Appendix 1 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	document for further research if necessary, or the use of e-learning packages which are available on these key national issues.				4. Lists of recommended bulletins available via e-mail/signposted in Members' Library. 5. Regular Members newsletter (AR/CA/LB/JW/AJW) 6. Learning materials simplified. Signposting summaries in leaflet form, etc. / signposted in Members' Library	July 08 July 08 Ongoing
8	R6 The Council should reconsider the way it ensures councillors understand the circumstances in which they must register an interest and the process for doing so to minimise the risks to councillors and the Council..	3	Chief Solicitor		Standard letter to members annually with description of personal interest, prejudicial interests and process for registration. Deal with changes to interests	May 2008
8	R7 The Council should explore whether councillors are clear on their responsibilities and actions to follow when they have prejudicial interest in a matter, or whether they misunderstood the question and the response does not reflect reality.	3	Chief Solicitor		Participation of members in Standards Board Annual Road Shows.	Autumn 2008
9	R8 The Council needs to address this lack of awareness about public accessibility to appropriate documents	2	Chief Solicitor		Review registration of interest internal procedures, and clarify public rights of inspection, circulate guidance to members	May/June 2008
9	R9 The Council should increase awareness of the whistle blowing policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.	2	Chief Solicitor		Include in future officer training events and circulate to officers, and external contractors etc. Expand entry on Internet and Intranet.	Summer/Autumn 2008

## STANDARDS COMMITTEE

22nd April, 2008



**Report of:** Acting Chief Solicitor

**Subject:** SEVENTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

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### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to notify the Committee of the 7th Annual Assembly of Standards Committees which shall take place over the period of 13th-14th October, 2008.

### 2. BACKGROUND

- 2.1 The 7th Annual Assembly of Standards Committees under the banner of “Delivering the Goods” is to be held on 13th-14th October 2008 at the International Convention Centre, Birmingham. The primary focus will be upon meeting the challenges of the new local standards framework and the ability to deliver effective local assessment of allegations and the conduct of proper and robust investigations. Accordingly, the Assembly will bring forward advice, best practice and skills training on key issues, including;
- The knowledge and skills required to create an effective Standards Committee that contributes to the good governance of an authority
  - How to benchmark and improve the Standards Committee's performance
  - Practical advice on developing effective governance in joint working with partner organisations and tracking this in Comprehensive Area Assessments
  - Moving beyond basic compliance with the Code to deliver a higher standard of governance that is central to an authority's culture
  - Options for alternative action, including mediation, and how these can benefit an authority
  - Better communications with the local community to improve public trust.

- 2.2 It should be noted that places are limited and are allocated on a strictly “first come, first served” basis. The last Assembly sold out quickly and accordingly, prospective delegates are requested and indeed encouraged to book places on the 2008 Assembly at the earliest opportunity. Members of the Committee are therefore invited to attend the 7th Annual Assembly and the requisite booking form and arrangements in that regard can be made through David Cosgrove, Principal Democratic Services Officer of the Council's Corporate Strategy Division.

**3. RECOMMENDATIONS**

- 3.1 That the Committee note the report.

# THE BULLETIN



the  
Standards Board  
for England

FEBRUARY 2008

## Contents

### Page 2

Government's consultation on new regulations and orders

Guidance on the local framework

Provisions concerning the ethical framework

### Page 4

Publicising the local assessment of complaints

### Page 5

Independent members and parish representatives in the local framework

### Page 6

New reporting system for authorities on local assessment

### Page 7

Prejudicial interests and setting the authority's annual budget

Appeals to the Adjudication Panel for England

### Page 8

Annual Assembly and upcoming events

### Page 9

New Chief Executive

### Page 10

Statistics

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### Welcome to Issue 37 of the *Bulletin*.

With the implementation of the changes to the standards framework drawing closer, this *Bulletin* looks at some of the ways in which local authorities can prepare now. We also examine how the Standards Board for England is working to make the transition to local assessment as smooth as possible.

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008 was made on 30 January 2008 to bring the provisions concerning the standards framework into force.

The Standards Board is working on guidance to assist authorities with their new responsibilities, and has produced a training syllabus. This aims to support authorities in developing core training for standards committees and monitoring officers.

In this edition, we look at publicising the local assessment of complaints. We also examine requirements for the recruitment of independent members and parish representatives to standards committees. The system of reporting for authorities under the new framework, which will help the Standards Board monitor local arrangements, is discussed.

In addition, this issue features useful articles on interests in relation to setting the authority's annual budget, and on appeals to the Adjudication Panel for England. We also provide information on booking for our Seventh Annual Assembly of Standards Committees.

Finally, it gives me great pleasure to introduce our new Chief Executive, Glenys Stacey. Glenys will start at the Standards Board in April and will succeed me in the role of chief executive following my retirement at the end of May.

**David Prince**  
Chief Executive

## Government's consultation on new regulations and orders

Communities and Local Government (CLG) launched a consultation in January 2008 on its proposals for the new orders and regulations arising from the Local Government and Public Involvement in Health Act 2007. These provided a revised ethical framework for the conduct of local authority members in England.

The consultation included proposals for regulations on the local assessment of complaints, the size, composition and proceedings of standards committees, and the sanctions available to standards committees.

The consultation closed on 15 February 2008. One of the consultation questions related to the effective introduction date for the orders and regulations. The Standards Board for England's own response urged 1 April 2008. Decisions on the timing of the changes, as well as the detailed changes themselves, will be for CLG ministers to take in the light of the consultation responses.

We understand that a considerable number of responses received so far have supported an implementation date of 1 May 2008. This suggestion will be considered by CLG along with the other responses received.

## Guidance on the local framework

As we mentioned in *Bulletin 36*, the Standards Board for England will be producing guidance to support local authorities in the implementation and function of the locally managed framework.

The published guidance will consist of five parts:

- the role and make-up of standards committees
- local assessment and how it will operate
- local investigations

- local determinations
- monitoring and audit arrangements

The guidance is subject to the regulations that will support the changes to the framework. We are working to publish it as soon as possible after the regulations are confirmed.

Each part of the guidance will contain two sections. The first section will be the actual guidance, which sets out the responsibilities of relevant authorities and what they need to do to meet them. A second section will contain a set of tools that will enable them to meet those responsibilities, such as templates for decision notices, letters and forms.

We will publish each part of the guidance on our website as soon as it is confirmed. This is so that local authorities can use them to prepare for the local assessment of complaints. Following this, we will produce a binder containing all of the guidance in a loose-leaf format. This will allow us to make amendments over time if necessary.

## Provisions concerning the ethical framework recently brought into force

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008 was made on 30 January 2008. The following are the main provisions concerning the ethical framework, which the order brings into force:

### (1) Provisions brought into force on 31 January 2008

- The partial commencement of Section 183 amends the power of the Secretary of State to make orders about general principles, model codes of conduct and those codes adopted by relevant authorities.

- Section 184 amends Sections 37, 52 and 54 of the Local Government Act 2000 so that certain references to an authority's code of conduct include reference to the mandatory provisions.
- The partial commencement of Section 185 allows the Secretary of State to make regulations about allegations made to standards committees of failure to comply with their authority's code of conduct.
- Sections 188 and 189 make provision about sub-committees of standards committees of relevant authorities, and allows the Secretary of State to make regulations about two or more relevant authorities establishing a joint standards committee.
- Section 190 allows the Standards Board for England to issue guidance to ethical standards officers. It also allows the Standards Board to do things which aim to help, or are incidental or conducive to standards committees and monitoring officers exercising their functions.
- Section 192 deals with ethical standards officers' reports. Among other things, it allows them to send reports to a standards committee which the committee would not otherwise be entitled to see, if it will help the committee to discharge its functions.
- Sections 193 to 195 amend the powers and functions of monitoring officers and standards committees. This is because the task of initially assessing allegations of misconduct by members is moving to a local level.
- The partial commencement of Section 198 allows the Secretary of State to make regulations about the powers and conduct of English case tribunals.

## (2) Provisions brought into force on 1 April 2008

- Section 187 amends Section 53(4) of the Local Government Act 2000 to require a standards committee to be chaired by an independent person.
- Section 191 deals with ethical standards officers' powers to investigate. The saving contained in article 7(3) of this order preserves the existing legal framework for cases referred to the Standards Board before 1 April 2008. **Note:** There is a typographical error in article 7(3) which will be addressed before 1 April 2008.
- Section 196 increases the scope for consultation by ombudsmen. It allows them to consult with standards committees when carrying out an investigation.
- Section 200 amends the Data Protection Act 1998 (c.29) by adding to the list of exemptions contained in Section 31. The exemptions now include data processed by a monitoring officer or an ethical standards officer under Part III of the Local Government Act 2000, where disclosing it would be likely to prejudice the proper discharge of that function.
- Section 201 makes supplementary provision relevant to provisions of Part III of the 2000 Act and consequential amendments to the Local Government Act 1972, the Audit Commission Act 1998 and the Greater London Authority Act 1999.
- Section 202 amends Section 3 of the Local Government and Housing Act 1989. This is done by transferring the function of granting exemptions from political restriction on members of relevant authorities in England from an independent adjudicator appointed by the Secretary of State to standards committees. It also empowers the Secretary

of State to make regulations requiring an authority which is not a relevant authority and so not required to have a standards committee, to establish such a committee. This is to exercise the functions of granting and supervising exemptions from political restriction. The section also provides for the Secretary of State to issue general guidance about exercising this function.

- Section 203 makes amendments in consequence of Section 202.

For more information, please call us on **0845 078 8181** and ask to speak to our Legal Department.

## Publicising the local assessment of complaints

The success of the ethical framework rests on transparency and accessibility. The public needs to be aware of the new role of standards committees, and where to turn if they reasonably suspect that a member has breached their Code of Conduct.

This is particularly important now that complaints will be assessed locally, and if someone's area is covered by two or more standards committees, for example a district and county council. People will also need to know where to go if they have a complaint about a parish councillor.

We have prepared a template complaint form which gives clear information on how to make a complaint. This will be part of the toolkit section of the guidance on local assessment (please see the article on page 2 for more details).

Authorities can adapt the form to their own requirements. We expect that some authorities may want to absorb complaints in relation to the Code of Conduct into their existing integrated complaints system.

Under this approach, all complaints would pass through a central point and find their way to the correct place. If there is no central clearing point for complaints, the public will need clear advice about where to direct their complaint.

While this is a matter for local discretion, we expect authorities to be as imaginative as possible in publicising the new system and how it works. Examples of good practice include:

- Prominent and easy-to-navigate links on the authority's website, especially on the 'democracy' and 'councillors' pages.
- Leaflets on display, and available in one-stop-shops, libraries (including mobile libraries), planning, housing and social work departments and area offices, and from parish clerks and offices in the district.
- Posters and publicity in Citizens Advice Bureaux and community groups, including those serving people who are traditionally more difficult to reach.
- Advertisements and articles in the local press and in the authority's own newsletter.
- Information broadcast on local radio.
- An 'Information for Citizens' section on public agendas.
- Leaflets put out at meetings and available on the agenda table.
- Publicity during Local Democracy Week and at other events such as community forum activities.
- A helpline.
- Assistance for people with a disability or whose first language is not English.

## Independent members and parish representatives in the local framework

The Local Authorities (Standards Committee) Regulations 2001 provide for the size and make-up of standards committees, and for the appointment of parish and independent members. Authorities are required to have at least three people on their standards committee and at least one must be an independent member.

Further to this, the Local Government and Public Involvement in Health Act 2007 requires all standards committees to have an independent chair. The assessment of Code of Conduct complaints will soon become the responsibility of standards committees. It is therefore vital that local authorities begin the process, if they have not already done so, of recruiting the necessary number of high calibre independent members.

The Standards Board for England recommends that each standards committee has a minimum of three independent members. If the authority is responsible for parish councils it recommends that each standards committee has at least three parish or town council representatives. This is so that the standards committee will have a different independent member, and parish representative if applicable, available to undertake each of the assessment and review functions. It also gives enough flexibility should an independent member or parish representative be unavailable or have a conflict of interest.

A person is only eligible to become an independent member if they meet the following criteria:

- They have not been a member or employee of the authority for five years before the date of appointment.
- They are not a member or officer of any authority currently.

- They are not a close relative or close friend of a member or employee of the authority.
- They filled in an application for the position.
- They have been approved by the majority of members of the authority.
- The position has been advertised in at least one newspaper distributed in the authority's area.

The successful recruitment of independent members and parish representatives is important for the effective operation of standards committees. In order to attract the greatest number of high calibre people, authorities should advertise as widely as possible. You may wish to consider additional methods of recruitment in addition to advertising in the local press. These could include:

- Advertising on your website or your local radio station.
- Placing flyers in libraries, adult learning centres or places of worship.
- Advertising through other authorities' partnerships or through the local voluntary or community sector.
- Contacting neighbouring authorities who may have good candidates that they don't have room to appoint.

As part of the recruitment campaign for independent members, standards committees may wish to set up a panel of suitably trained members to shortlist and interview potential candidates. The monitoring officer should play an active role and be involved throughout the recruitment process, advising the panel on the appropriate steps.

## New reporting system for authorities on local assessment

The introduction of local assessment means that local authorities will be required to report information about receiving and investigating cases to the Standards Board for England.

We have been asked by the government to ensure the effectiveness of the local framework. This is to ensure confidence that local representatives are serving the public openly and fairly, and being held to account effectively if they fall below the accepted line.

To do so there needs to be a constructive monitoring procedure, which is light touch and proportionate to identified risk. Consequently, we have tried hard to design a system that will allow monitoring officers to tell us the information that we need to perform our duty as a strategic regulator, without being overly burdensome. The system was piloted with a wide cross-section of monitoring officers. We tried to tailor the questions so that they mirror the type of information monitoring officers will be reporting to their authority.

At intervals, normally at the end of each quarter, the monitoring officer, or other designated person in the authority, will complete a simple online questionnaire. The questionnaire does not take long to complete.

If there are no complaints to report, the monitoring officer just answers a few quick questions about the composition of the standards committee, and then ticks a box to indicate that there were no complaints in that period. At the end of the following quarter, if there are still no complaints and the details about the standards committee have not changed, notification will be even easier. The monitoring officer will just need to log onto the system, place a tick in a box and then press a submit button.

If there are complaints to report, then there is an additional section of the form where the monitoring officer has to provide some details

about each complaint. The questions cover standard areas like the complaint source and outcome, and significant dates in the process. We need to know things like how long investigations are taking and whether mediation has been successful.

The idea behind collecting this information is to allow us to help local authorities by being aware of and sharing effective practice, identifying trends, and managing risks.

Although the quarterly information returns will give us the quantitative data we need for monitoring local case handling, we will also supplement this with additional data collected on an annual basis. This annual data will enable you to tell us about the plans and activities of your standards committees and will provide an opportunity for you to share effective practice with us. We will again do our best to make sure that this annual data collection is not an onerous task.

In addition, the legislation allows us to request further information from authorities. However, we will only do this if the regular monitoring raises concerns about performance at an individual level. If this does happen, we have put in place a small support team who will work with you to see if there is additional guidance you may need, or particular training issues we can help you address.

While the law does allow us to remove local powers, this will be very much a last resort if all other avenues of support fail. We hope our support team will become an important resource for you to draw upon to do your jobs even more effectively.

The quarterly returns system is due to go live at the same time as the new assessment arrangements, and monitoring officers will be contacted soon with details of how to access and use the questionnaire. Data submissions will not be due until after the close of the first quarter. We are aiming to provide high quality support for this system, with a comprehensive user guide and telephone helpline.

## Prejudicial interests and setting the authority's annual budget

There is an exemption regarding prejudicial interests under paragraph 10(2)(c)(vi) of the Code of Conduct. This provides that a member does not have a prejudicial interest in any business of the authority where that business relates to the **functions** of "setting council tax, or a precept under the Local Government Finance Act 1992". This exemption applies even where a member might otherwise have an interest under paragraph 10. So what is the scope of the exemption?

There are many different ways to present the annual budget for the next municipal year and there are many different procedures used by authorities to set a budget. The Standards Board for England believes that the words "relates to the functions" are wide enough to cover the formal council tax or precept-setting meeting of the authority. It can also cover those meetings at which the preparatory work is decided, leading up to the council tax or precept-setting meeting.

Therefore, the exemption in paragraph 10(2)(c)(vi) should cover members for most council budget-setting meetings. However, it does not cover members who are also being asked to consider whether to hand over money, usually in the form of grants, for organisations that form one or more of their personal interests and for which specific budgetary provision has been, or is being made.

In other words, just setting aside money in an annual budget for an organisation is a function that relates to setting council tax and so qualifies for the 10(2)(c)(vi) exemption. However, the formal decision to hand it over, at whatever meeting, would trigger a prejudicial interest that is not exempted by 10(2)(c)(vi).

Usually the formal decision to hand over the money is actually made by an officer under the authority's scheme of delegation which allows them to take decisions. This is as long as it does not incur expenditure beyond that which has been budgeted.

We believe that no member has a prejudicial interest in motions which call on members to adopt the budget with details which are set out in an officer report. These general motions are clearly part of the council tax-setting process. Therefore, all members can attend, debate and vote on that motion, whatever the effects might be on their personal interests.

Difficulties can arise with members, normally executive members, at the early stages of the annual budget preparation when specific amounts of money may be allocated to bodies in which the member has a personal interest. If the decision being made is clearly part of the budget-setting process for your authority then the exemption in paragraph 10(2)(c)(vi) appears to apply. However, if there is any doubt about the status of the decision, the prudent course would be to declare a prejudicial interest or seek a dispensation from the standards committee.

## Appeals to the Adjudication Panel for England

A recent case has highlighted the need for standards committees to take care when giving councillors information about appeals following a standards committee hearing. In the case, the standards committee's written decision did not give a contact address for the President of the Adjudication Panel for England. The decision was also worded in a way which suggested that the President could be contacted via the Standards Board for England.

The rules on appeals in relation to standards committee decisions are covered by Part III of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003. Paragraph 8 of the regulations requires the standards committee to give written notice of the finding as soon as reasonably practicable. This should be given both to the member and to the other people specified in this paragraph. For example, any parish councils concerned and any person who made an allegation that gave rise to the investigation.

Paragraph 9(1) of the regulations provides that the member who is the subject of the finding may "by way of notice in writing given to the President of the Adjudication Panel, seek permission to appeal". Paragraph 9(2) states that such notice must be received by the President of the Adjudication Panel within 21 days of the member's receipt of notification of the finding. Notification of the finding is considered to be the date on which the member receives the full written decision. In practical terms, this is usually a number of days after the hearing itself.

While there is no obligation to specify the contact details of the President, it is good practice to include both the postal address and the Adjudication Panel's website details in the decision notice. The postal address is:

The Adjudication Panel for England  
23 Victoria Avenue  
Harrogate  
North Yorkshire  
HG1 5RD

The website address is [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk), and the office of the Adjudication Panel can be emailed via [enquiries@adjudicationpanel.co.uk](mailto:enquiries@adjudicationpanel.co.uk).

Standards committees might also wish to refer members to the 'Application for permission to appeal form' on the Adjudication Panel's website. This is the first link on the Procedures section of the site, and helpfully sets out what information should be provided when applying for permission.

## Annual Assembly delegate fee frozen

This year's Annual Assembly of Standards Committees is called **Delivering the goods: local standards in action**. The event will provide an invaluable opportunity for delegates to share experiences and learn from those who have been through the local assessment process.

We recognise how important it is that as many people as possible have the chance to attend. So we have frozen the cost of places at this year's conference at the same price as 2007 – £430 plus VAT.

The 2008 conference microsite – [www.annualassembly.co.uk](http://www.annualassembly.co.uk) – goes live in March, when delegates will be able to book places using quick and easy online booking. The site will also provide more information about what's on at the conference.

To register your interest in the conference, please email [annualassembly2008@standardsboard.gov.uk](mailto:annualassembly2008@standardsboard.gov.uk)

## Upcoming events

The Standards Board for England is running sessions at both the Labour and Conservative party local government conferences. Details are:

### The case for the Code of Conduct

Conservative local government conference, 1 March 2008, Warwickshire.

A session looking at some of our investigations from the last five years. This will illustrate the need for a mechanism to deal with the minority of councillors who damage public trust in local government. The session will be followed by a discussion chaired by Councillor Sir Ron Watson, CBE.

### Partnerships, standards and leadership

Labour local government conference, 2 March 2008, Birmingham.

A presentation and discussion, organised in partnership with the Improvement and Development Agency (IDeA) looking at local government partnership working. A chance to discuss the key issues of leadership, high standards, culture, values and behaviour in addressing the accountability gap often presented by partnership working.



## New Chief Executive

Glenys Stacey has been appointed as the new Chief Executive of the Standards Board for England. She will begin in April and, after a handover period, will succeed David Prince who retires at the end of May. Glenys will be out and about meeting stakeholders and those of you involved in standards locally.

Experienced in the public sector, Glenys is a solicitor and former Chief Executive of the Criminal Cases Review Commission, responsible for investigating suspected miscarriages of justice. She is also a former Chief Executive of the Greater Manchester Magistrates' Courts Committee, managing summary justice delivery in Greater Manchester.

Glenys comes to the Standards Board from her latest role as Chief Executive of Animal Health, where she has been leading a national organisation through development and reform. She has also headed the country-wide field response to animal disease outbreaks.

Glenys Stacey said:

"I am delighted to be joining the Standards Board for England at such an interesting time – both for the Standards Board as it evolves to become a strategic regulator, and for local government as its remit is changing and growing. I hope and trust that my experience of the good work of local authorities and in leading professional organisations in the public sector will stand me in good stead, and I am looking forward very much to taking up the post."

Welcoming the appointment, Sir Anthony Holland, Chair of the Standards Board, said:

"As a solicitor with experience of developing and running complex service organisations, Glenys is exactly the person we need to lead the Standards Board for England in its new role of providing

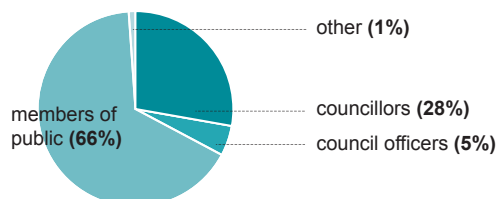
both the vital support and the independent, national oversight needed to make the locally-based ethical standards system work."

## Referral and investigation statistics

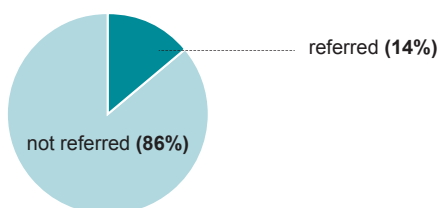
The Standards Board for England received 2,869 allegations between 1 April 2007 and 31 January 2008, compared to 2,819 during the same period in 2006-07.

The following charts show referral and investigation statistics during the above dates.

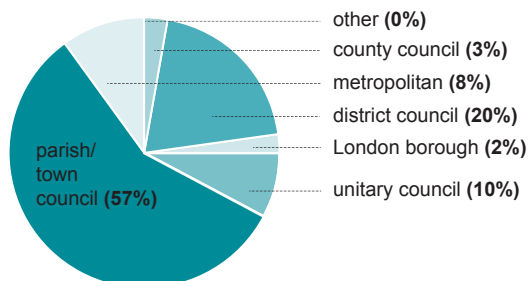
Source of allegations received



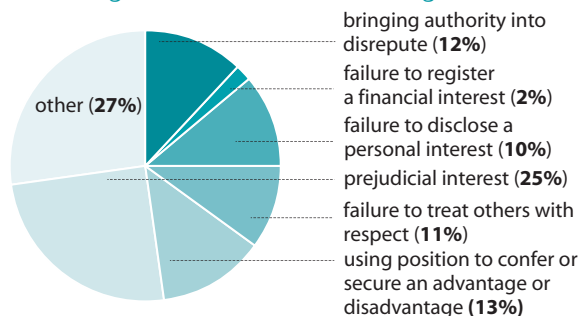
Allegations referred for investigation



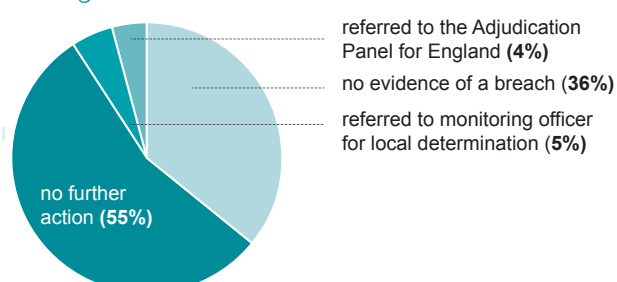
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



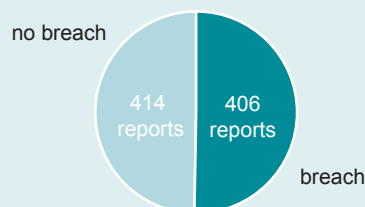
Final findings



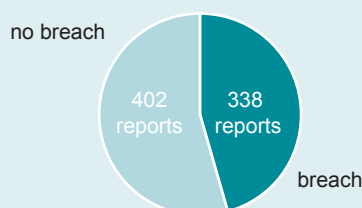
## Local investigation statistics

For the period 1 April 2007 to 31 January 2008, ethical standards officers referred 223 cases for local investigation – equivalent to 51% of all cases referred for investigation. Since 1 April 2007 there have been eight appeals to the Adjudication Panel for England following standards committee hearings. Of all cases referred for local investigation since November 2004, we have received a total of 1,036 reports – please see below for a statistical breakdown of these cases.

Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations

