

## **STANDARDS BOARD FOR ENGLAND THIRD ANNUAL CONFERENCE**

### **Purpose of the report**

1. On the 13<sup>th</sup> and 14<sup>th</sup> September 2004 I attended the third annual conference of the Standards Board for England. A number of interesting issues were raised and discussed, and some of them will be of interest to Wiltshire County Council's Standards Committee. This report outlines the most important of those issues.

### **Performance of the Standards Board for England**

2. There have been significant delays in processing complaints made to the Standards Board, resulting from the large number of allegations made, lack of staff to conduct investigations, and the Board's inability to refer cases for local determination until relatively recently. Many delegates made the point that these delays were unacceptable, and that "justice delayed is justice denied". The Board accepted these criticisms, and explained what steps had been taken to address them.
3. A new chief executive has been appointed. The Board has recruited the number of investigators needed for its anticipated case load. It is dealing with the backlog of cases by means of secondments from other public sector organisations. It is able to refer relatively minor cases for determination by local Standards Committees. It is still required to carry out all investigations, and will be until the Section 66 regulations come into force – this increases the work load. It will not investigate trivial allegations, or those that appear to be motivated by political point scoring. The work load should therefore even out, and this is demonstrated by a significant improvement in performance.

### **New Regulations**

4. Nick Raynsford, the Minister of State for Local and Regional Government, addressed the conference on this matter. He said that the Section 66 Regulations will come into force "in a matter of days". This will enable the local investigation of relatively minor allegations.

5. Indemnity regulations have just been laid before the House. They propose to indemnify members who suffer financial loss in defending unfounded allegations made to the Standards Board.

#### Review of the Members' Code of Conduct

6. The Code has now been in force for two years, and delegates were asked to consider specific aspects of interpretation and implementation that appear to have caused problems in practice. Specifically, these were:
  - The duty placed upon members to report possible breaches of the Code to the Standards Board. This has led to high numbers of trivial complaints and, occasionally, absurd situations where members have reported themselves to the Board for breaches. Many delegates considered that this requirement might be relaxed, provided safeguards for “whistle blowers” are put in place to protect those who do decide to report alleged breaches.
  - A large number of allegations had been made about failure to “treat others with respect”. Many of those who had been the subject of such allegations had argued strongly that they had not been failing to do this, they were only engaged in “plain speaking”. Delegates were asked if the Code should attempt to define failure to treat with respect more narrowly. The view was that no such attempt should be made: the test should be whether a reasonable person, considering the facts, would consider that the member concerned had failed to treat other with respect.
  - A number of cases were investigated about allegations that members had misused council resources. Some of these cases related to relatively minor misuse (eg, the use of a council-owned computer to send a small number of personal e-mails). Delegates were asked whether there should be a de minimis threshold. The view was that, although this might on the face of it seem logical, the public might take a different view of the private use of public resources, and that such a threshold would be difficult to define. They therefore considered that no de minimis threshold should be introduced.
  - Delegates were asked whether there should be a distinction in the Code between a member’s public and private life on the question of bringing the authority into disrepute. The strong view of most of those present was that the test should remain that if a reasonable person would consider that, by his/her actions, a member had brought their authority into disrepute. This will always depend on the context in which the incident(s) occurred.
  - The most contentious issue was whether a member who has a personal and prejudicial interest in a matter should be permitted to declare their interest and then continue to represent their views in a

private capacity. Several elected members considered that they had been elected to represent their communities on local issues, and that this provision of the Code prevented them from fulfilling that role. No consensus was developed on this issue, and it is likely that the debate will continue for some time.

- Some members have disclosed information that was confidential, and one argued that she had done so in the public interest. Delegates were asked if the Code on this should be relaxed. I asked whether the Board had considered the implications of the Freedom of Information Act in this context: the Act specifically requires that almost all information should be subjected to the public interest test, and councils will no longer be able to rely on confidentiality as a reason for withholding information from the public domain. It was suggested that members should check with the Freedom of Information Officer and obtain advice on whether information could be disclosed. This would protect both the individual members and the authority.

#### The Role of the Standards Board in Promoting Ethical Standards

7. Until recently, the Standards Board has been unable to undertake much work beyond investigating alleged breaches of the Code. However, they are now beginning to consider how they might best work with public authorities to promote and inculcate high standards of conduct. Oonagh Aitken from the Improvement and Development Agency (I&DeA) addressed the conference about work the I&DeA will be undertaking to develop a toolkit to take the “ethical temperature” of an authority. I was able to meet her to talk about the work that Wiltshire County Council has already done in this area. She asked me to send her information about our work, specifically related to the proposals presently before the Standards Committee to approve a Code of Corporate Ethical Conduct.
8. A draft Code of Conduct for officers has just been released for consultation. I suggested that we should find a mechanism for linking this to the Members’ Code. The I&DeA thought that this could be incorporated into the ethical governance toolkit that is being developed.

#### Ethical Conduct and Corporate Performance Assessment

9. A recurring theme of the conference was the development of strong links between high standards of ethical performance and good or excellent authorities. This was emphasised by Steve Bundred, the Chief Executive of the Audit Commission, and by John O’Brien, the Director of Local Government Practice at the Office of the Deputy Prime Minister. The message was that ethical health leads to improved performance and vice versa. It seems very likely that ethical conduct will feature more prominently on future CPA assessments.

## Composition of Standards Committees

10. Only 66% of Standards Committees are chaired by an independent member. The Standards Board has found a correlation between “the most problematic councils” and Standards Committees where the chair is not held by an independent member. Consideration is to be given to whether it should be a statutory requirement for the chair of the Standards Committee to be independent.

## Recommendation

11. That members note this report.

Nina Wilton  
CORPORATE STANDARDS MANAGER

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Unpublished documents relied upon in the production of this report:      None

Environmental impact of the recommendations contained in this report:      None

Risk assessment: There are no risks associated with the recommendation made in this report.