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### Contact

Enquiries line: 0845 078 8181

Minicom: 0161 817 5449

[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

email: [bulletin@standardsboard.gov.uk](mailto:bulletin@standardsboard.gov.uk)

### Welcome to Issue 36 of the *Bulletin*.

2007 has been an eventful year for the Standards Board for England, with all the elements of the local standards framework starting to come together. We all have a lot to do in 2008 to ensure its successful implementation.

The *Local Government and Public Involvement in Health Act 2007* is now law and firmly places responsibility for the standards agenda where it belongs, at the heart of local government. Standards committees will have a vital role in ensuring that the Code of Conduct is lived out locally and upheld. We believe that this approach will reinforce the importance of high standards at a local level, helping to demonstrate accountability and developing greater local trust.

The Standards Board continues to develop its functions as a strategic regulator and is working hard to prepare local authorities for their new responsibilities in the ethical framework. We are producing detailed guidance that will be made available to all relevant authorities in the new year, to reflect the regulations issued under the *Local Government and Public Involvement in Health Act 2007*.

In this issue of the *Bulletin* we focus on the findings from the local assessment pilots, and provide a checklist for local authorities in the run-up to April 2008. We also clarify the position of suspended members in relation to conduct outside their official capacity, and look at the Audit Commission's survey on ethical governance.

We have enjoyed a very positive year, with a successful relocation to Manchester and the opportunity to meet many of you at our roadshows and our well-received Annual Assembly.

We look forward to continuing and developing our close relationships with local authorities in the context of the new standards framework from 2008.



**David Prince**  
Chief Executive

## **Amendments to the *Local Government Act 2000***

The *Local Government and Public Involvement in Health Act 2007* was passed by Parliament on 30 October 2007 when it received royal assent.

The act includes important amendments to the *Local Government Act 2000*, including:

- 1) The introduction of a locally managed framework of compliance with the Code of Conduct and a new regulatory role for the Standards Board for England.

This will involve local standards committees making initial assessments of misconduct allegations, and most cases being handled locally. The Standards Board will provide supervision, support and guidance for local authorities. The Standards Board will also aim to ensure some degree of consistency in the application of the Code.

It is anticipated that the sections introducing the locally managed framework will commence on 1 April 2008.

- 2) The application of the Code to cover some conduct in a private capacity, where this has led to a criminal conviction.

This second amendment does not take effect immediately as the relevant parts of the act have not yet come into force and, in the meantime, conduct carried out in a member's private capacity cannot be subject to the Code.

## **Government consultation on new regulations and orders**

Communities and Local Government (CLG) is expected to consult in December 2007 on proposals for the new regulations and orders that flow from the *Local Government and Public Involvement in Health Act 2007*.

The consultation is expected to include proposals for regulations on local assessment of complaints, joint standards committees and an increased range of sanctions for standards committees.

For a copy of the consultation document, or for more information, contact CLG on **020 7944 4400**.

## **Local assessment of complaints: pilot findings**

During the summer, the Standards Board for England piloted the local assessment of complaints with a broad geographical range of authorities of all types, across England. A total of 38 standards committees participated in the pilot, each of which considered 12 real but anonymised cases, including two appeal cases.

The Standards Board collected a range of data and feedback from the pilot, developing an overview of how the local system might work in practice. Detailed analysis of the results and feedback supplied by 30 committees was undertaken. The results are based on 360 allegations considered by standards committees.

Standards committees were asked to record whether they decided to:

- Refer allegations to the Standards Board.
- Refer allegations to the monitoring officer for investigation or alternative action such as mediation or training.
- Not refer them at all.

The average referral rate for standards committees was just over six out of the ten cases (excepting the two appeals) at 66.5%, compared with the Standards Board's referral rate on the same cases of three out of ten, or 30%. However, local standards committees had the further option to consider alternative action such as mediation, training or an apology, which is not available to

the Standards Board, and referrals for alternative action are included in their average.

The average rate of referral for alternative measures was 7.3%. The average non-referral rate for standards committees was low at 33.5% compared with the Standards Board's non-referral rate of 70%.

The Standards Board had originally referred three of the ten allegations given to participating standards committees in the pilot for investigation. Standards committees participating in the pilot largely correlated with the Standards Board in their decisions to refer these allegations.

The majority of referrals by standards committees were made to monitoring officers at an average rate of 40%, ranging between 23% and 66.6%. The rate of referral to the Standards Board for investigation was low, at less than 10%.

Standards committees made decisions which diverged significantly from those of the Standards Board in only 11 of the 360 allegations.

Therefore, participating standards committees took a different view from the Standards Board in less than 4% of cases.

Standards committees were asked to self-assess their collective decision-making for each complaint against the following categories:

- 1) Quick decisions.
- 2) Decisions requiring some deliberation.
- 3) Difficult decisions.
- 4) Not specified (where no decision was reached in the allocated time).

In nearly 40% of cases, standards committees considered that they were able to reach a quick decision, and only in 13% of cases were decisions considered slow and difficult with much deliberation.

Standards committees were also asked to record whether any of their decisions went to the vote. Nearly 14%, or 49 of the total of 360 allegations considered in the pilot, were voted on. A further 11% of the total complaints were undecided, in most cases because a decision was not reached in the time allocated. Therefore, 76% of the decisions taken in total by the participating standards committees were reached through consensus.

Finally, standards committees were also asked to consider a range of additional procedures and resources they considered necessary for managing the local system and making it work in their own authority.

The average number of members from participating authorities serving on their standards committees is nine, and ranges from five to 16. The average number of independent members is nearly four, ranging from two to seven. Some 93% of participating standards committees had an independent chair.

Almost half of participating standards committees considered themselves to be politically balanced in the strict legal sense, that is, in accordance with the political balance requirements of Sections 15-17 of the *Local Government and Housing Act 1989*.

The establishment of a sub-committee was considered to be necessary by 23 of 30 committees, while only a third, ten of 30, considered adding more independent members as necessary.

Of the 13 authorities which stated they would not increase the number of independent members on their standards committee, seven said they would need to increase resources, five were unsure, and only one felt they would not need to increase resources.

## Checklist for local authorities in the run up to April 2008

This article offers a ‘checklist’ for local authorities of things to consider in the run-up to the implementation of the locally managed framework. Please note that, in some cases, it is subject to Communities and Local Government making appropriate regulations.

### 1) Size of standards committee

Standards committees must have a minimum of:

- Three members (two elected members and one independent member).
- 25% as independent lay members if the committee is more than three people.
- An independent chair (from April 2008).
- One parish or town council member if the authority has responsibilities for those councils.

Effective practice - the Standards Board recommends:

- At least six people as a minimum (three elected members and three independent members).
- Two, or possibly three, parish or town council members if the authority has responsibilities for those councils.
- Consideration of whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.

### 2) Structure of standards committees

In addition to their role as champion and guardian of the authority’s ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct:

- Receiving and assessing complaints.
- Reviewing local assessment decisions.
- Conducting hearings following investigation.

To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested.

Effective practice – the Standards Board recommends:

- A structure of sub-committees or the standards committee acting as a pool of members to deal with the different roles.
- As a minimum, two separate sub-committees, one for taking initial assessment decisions and one for taking decisions on reviews.
- Subject to regulations, any sub-committee should also have an independent chair.
- A member who was involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something that needs to be investigated. It does not require deliberation of whether the conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.

### 3) Training

Effective practice – the Standards Board recommends:

- Standards committees are fully trained on the Code of Conduct.

- Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing.
- Independent chairs and vice-chairs are trained in chairing meetings.
- Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.

#### 4) Local assessment criteria

- Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints.
- Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness.
- Monitoring officers will be able to acquire additional factual information which is readily available about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making. It should not include interviews or investigation.
- A complainant has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit further information in support of the complaint at the appeal stage in the process.

#### 5) Role of the monitoring officer in the new framework

Effective practice – the Standards Board recommends:

- A pre-meeting with the independent chair.

- Preparing a summary of the allegation for the standards committee.
- Highlighting what the potential Code breaches are which underlie an allegation to the standards committee.
- Allowing case reading time for the monitoring officer and the standards committee.

#### 6) Completing existing investigations

Many authorities will have outstanding investigations and the Standards Board encourages authorities to clear such investigations – particularly long-standing cases – before the new framework comes into effect.

Any authority experiencing difficulties in completing an investigation should seek advice and support from the Standards Board. Please contact Rebecca Strickson, Local Investigations Co-ordinator on **0161 817 5372**, or email [rebecca.strickson@standardsboard.gov.uk](mailto:rebecca.strickson@standardsboard.gov.uk).

#### 7) Local assessment and the corporate complaints process

Effective practice – consider:

- How will the public be informed of the new arrangements?
- Who will receive and log an allegation?
- The production of an individual information leaflet for the local assessment process, possibly combined with the corporate complaints process.

#### 8) Future monitoring by the Standards Board

The Standards Board is consulting a sample of authorities involved in a pilot study on proposals for an online information return system, which will allow authorities to tell us about how local arrangements are working.

This system is being designed based on what standards committees need locally, and to enable authorities to provide information to the Standards Board as simply as possible. Authorities will be able to use the system locally for their own records, to keep standards committees informed of their authority's ethical activities.

Proposals for the system include quarterly online returns on cases, which will be simple and quick to use, and nil returns if there is no activity to report.

### 9) Local assessment guidance

We will help standards committees by providing guidance in 2008 on all aspects of the local assessment process, subject to the passage of the relevant regulations, with a toolkit to include:

- Template notices for publicising the authority's Code of Conduct complaint process.
- Complaint assessment flowcharts.
- A standard complaint form.
- Template letters for each stage in the process.
- Template referral and non-referral decision notices.
- Guidance to assist with drafting criteria and for the authority to define its threshold for referral.
- Template terms of reference for assessment and review committees.

### Local assessment information now available online

The Standards Board for England's website has been updated to feature a new section on local assessment of complaints.

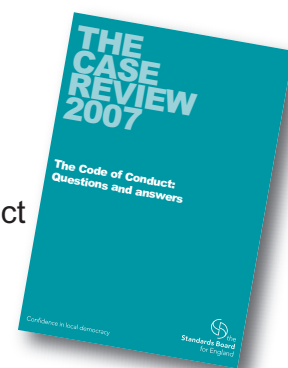
This section, accessible from the main menu, aims to keep you up to date on the new arrangements and what they will mean for local

authorities and the Standards Board's role. You can find out about any new developments in this area in the section's *Latest news* page.

If you have an enquiry about the proposed changes or anything else relating to local assessment, please phone **0845 078 8181** or email [enquiries@standardsboard.gov.uk](mailto:enquiries@standardsboard.gov.uk).

### Case Review 2007

The *Case Review 2007* is a paragraph-by-paragraph analysis of the Code of Conduct and is available to download from our website.



We intend to reissue the *Case Review*, complete with its paragraph-by-paragraph analysis, on an annual basis to reflect the evolving interpretation and developing understanding of the Code.

Issues of the *Case Review 2007* were distributed to delegates at this year's Annual Assembly. Additional hard copies cost £20 and can be ordered by calling **0161 817 5300** or by emailing us at [publications@standardsboard.gov.uk](mailto:publications@standardsboard.gov.uk).

### Satisfaction high for Annual Assembly

Almost 800 delegates attended the Standards Board's Sixth Annual Assembly of Standards Committees held at Birmingham ICC in October 2007. This year's conference was a sell-out event and our feedback suggests it was a resounding success, with a 97% satisfaction rate among delegates.

Called *Down to detail: Making local regulation work*, the conference provided a range of sessions to help build the skills, contacts and resources necessary to meet the challenges of local assessment. And, as the minister Parmjit Dhanda MP said on the opening day, it came at a

crucial time for standards committees, with the *Local Government and Public Involvement in Health Act 2007* having now been passed in Parliament, as discussed on page 2 of this *Bulletin*.

More information on the event is available from our conference website, [www.annualassembly.co.uk](http://www.annualassembly.co.uk), where you can also download materials such as newsletters, speeches, session slides and handouts.

Our next Annual Assembly will be held again at the ICC in Birmingham on 13 and 14 October 2008. For further information, please email: [annualassembly2008@standardsboard.gov.uk](mailto:annualassembly2008@standardsboard.gov.uk)

## Stronger action needed on ethical governance

The latest Audit Commission self-assessment survey reveals that although councils are generally managing the ethical agenda well, there are a number of areas that require stronger action.

### Survey background

The self-assessment survey was created by the Audit Commission in conjunction with the Standards Board for England and the Improvement and Development Agency (IDeA). It is one element of the four-part Ethical Governance Diagnostic Toolkit, which also includes a full diagnostic, a light-touch health check (provided by the IDeA) and workshops.

The survey helps councils assess and then, where necessary, improve their ethical governance procedures by helping them understand the key ethical governance issues they are now facing.

### Key findings

- Members generally demonstrate high standards of behaviour.

- Leaders and chief executives are proving themselves as positive role models in many councils.
- Roles, responsibilities and relationships of members and officers relating to the ethical framework are not always clearly understood.
- Standards committees make a difference, but they don't always explain to other members, officers and the public what they do, the issues they are addressing, and the progress they are making.
- Communication, training, guidance and information are critical areas and often need more of a focus.

The survey has highlighted key areas that councils actively need to address to improve ethical behaviour and to fully meet the ethical agenda.

For further details on these findings or on the Ethical Governance Toolkit, please contact Hannah Pearson on **0161 817 5417** or email [hannah.pearson@standardsboard.gov.uk](mailto:hannah.pearson@standardsboard.gov.uk).

## Independent adjudicator abolished – new role for standards committees

Restrictions on political activities by certain local government staff were introduced under the *Local Government and Housing Act 1989*, which provided for the appointment of an independent adjudicator to grant dispensations for staff to engage in certain political activities.

Under the *Local Government and Public Involvement in Health Act 2007*, the role of independent adjudicator will be abolished and the duties transferred to local authority standards committees.

These duties are:

- To consider applications from local authority employees for exemption from political restriction in respect of their posts.

- Where appropriate, to issue directions requiring a local authority to include a post in the list of politically restricted posts it maintains.
- To give general advice, following consultation with appropriate parties, on the application of criteria for designation of a politically restricted post.

The timing of this transfer of functions from the independent adjudicator is a government matter, but the Standards Board urges authorities to ensure that their standards committees are made aware of the change.

We expect the relevant government department, Communities and Local Government, to issue guidance on this matter. The department may be contacted via [www.communities.gov.uk](http://www.communities.gov.uk) or on **020 7944 4400**.

### Updated advice on suspensions

In Issue 21 of the *Bulletin*, the Standards Board outlined what a member should and should not do if they are suspended.

The decision by Collins J in *Livingstone v Adjudication Panel for England* [2006] EWHC 2533 (Admin), has led us to review that guidance.

A member of an authority who is suspended continues to be a member of that authority. They can quite properly refer to themselves as a councillor or as an elected member, although they should also make it clear that they are currently suspended.

However, someone who is fully suspended may not, while they are suspended, exercise any of the functions or responsibilities of membership of the authority. This means that they should not take part in any formal business of the authority, they should not use or have access to council facilities, and they should not receive their council allowances.

A member who is subject to partial suspension may not, during the period of that suspension, exercise the particular functions or responsibilities from which they are suspended. What those functions or responsibilities are will depend on the exact terms of their suspension, and the standards committee needs to describe precisely what particular functions are proscribed.

Under the 2001 Code of Conduct, two paragraphs applied “in any other circumstance” outside the functions or responsibilities of membership of an authority. As such, these provisions still applied to members who were suspended. The *Livingstone* judgment restricted the effect of these provisions.

The position now is that three paragraphs under the revised 2007 Code of Conduct will apply, “at any other time, where that conduct constitutes a criminal offence”.

The three paragraphs will be:

- Paragraph 3(2)(c) – intimidation of certain persons in relation to an allegation under the Code.
- Paragraph 5 – disrepute.
- Paragraph 6(a) – improperly conferring or securing an advantage or disadvantage.

However, this will only occur when amendments to Section 52 of the *Local Government Act 2000* come into effect. Until this time, the 2007 Code of Conduct does not apply to a person who has been suspended in respect of a relevant function of office for a relevant period of time, so long as the member makes it clear that they have been suspended and does not purport to act as a representative of their authority.

As an example, if a member is suspended from appointment to a planning committee for a period of two months, the relevant function is membership of the planning committee and the relevant time period is two months. The Code



does not currently apply to the member in respect of this function for this time period, so long as the member makes it clear they have been suspended. When the amendments to the *Local Government Act 2000* come into force, conduct that constitutes a criminal offence will also be covered in respect of this function during this time period, in relation to the three paragraphs of the Code listed above.

## **New Board members required**

With the end of current members' terms approaching, Communities and Local Government is seeking to recruit a new chair, deputy chair and two new Board members for the Standards Board for England.

Communities and Local Government is particularly seeking applications for the Board member roles from candidates who have experience as an independent member of a local standards committee or as a local authority monitoring officer.

Full details of all the posts, including how to apply, can be found at [www.clgstandards.org](http://www.clgstandards.org).

The closing date for applications for chair is 20 December 2007. For all other roles it is 14 January 2008.

## **The Standards Board at Christmas**

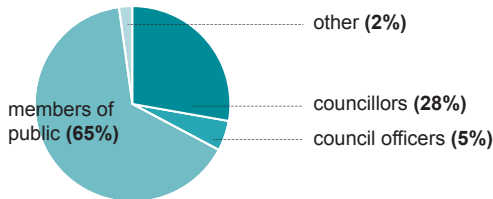
The Standards Board for England's offices will be open during the majority of the festive period, but will be closed on Christmas Day, Boxing Day and New Year's Day. We will endeavour to respond to your enquiries as soon as possible during this time.

## Referral and investigation statistics

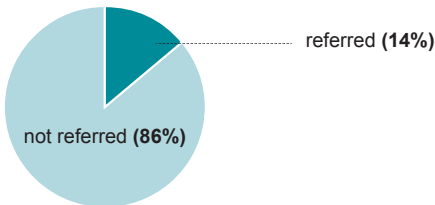
The Standards Board for England received 2,098 allegations between 1 April 2007 and 31 October 2007, compared to 1,996 during the same period in 2006.

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

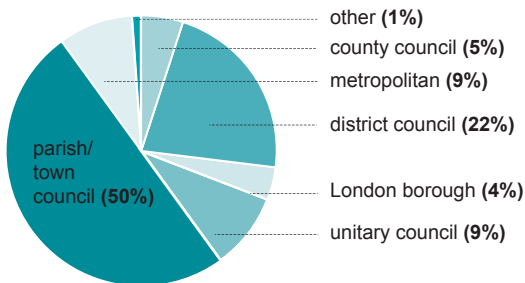
Source of allegations received



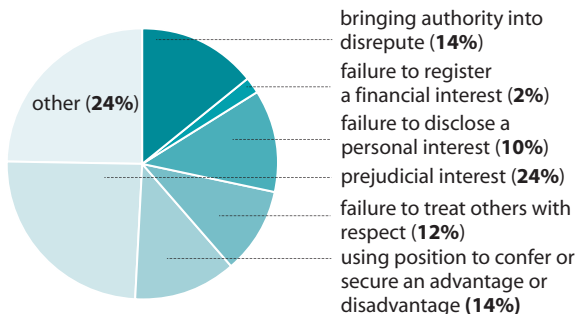
Allegations referred for investigation



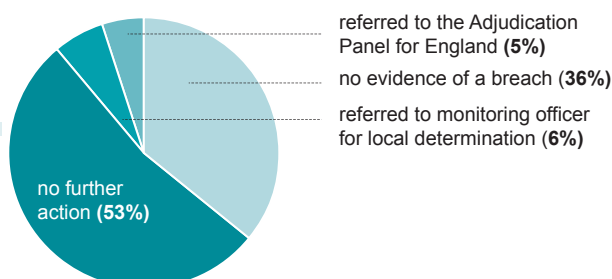
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



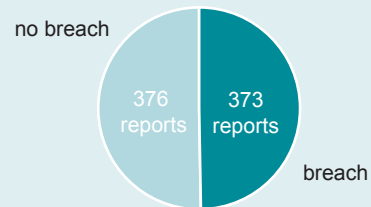
Final findings



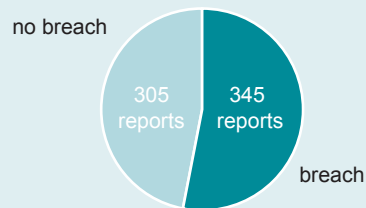
## Local investigation statistics

For the period 1 April 2007 to 31 October 2007, ethical standards officers referred 171 cases for local investigation – equivalent to 55% 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 749 reports – please see below for a statistical breakdown of these cases.

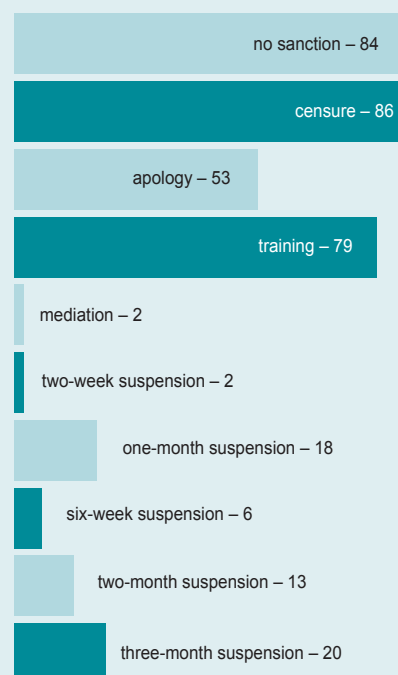
Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations



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### Contact

Enquiries line: 0845 078 8181

Minicom: 0161 817 5449

[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

email: [bulletin@standardsboard.gov.uk](mailto:bulletin@standardsboard.gov.uk)

### 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

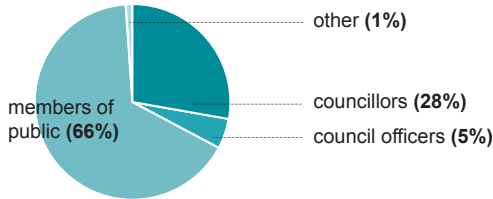
both the vital support and the independent, national oversight needed to make the locally-based ethical standards system work."

## Referral and investigation statistics

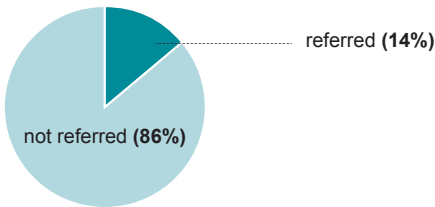
The Standards Board for England received 2,869 allegations between 1 April 2007 and 31 January 2008, compared to 2,819 during the same period in 2006-07.

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

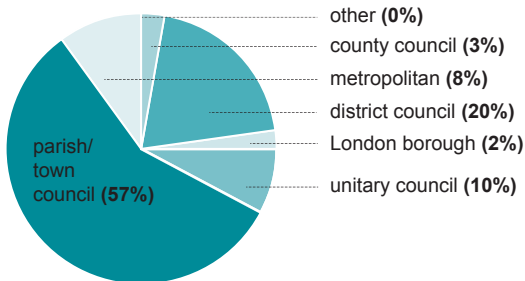
Source of allegations received



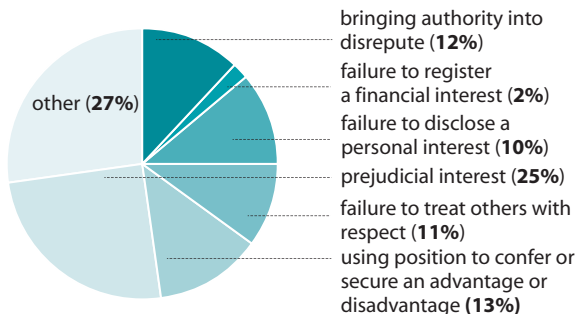
Allegations referred for investigation



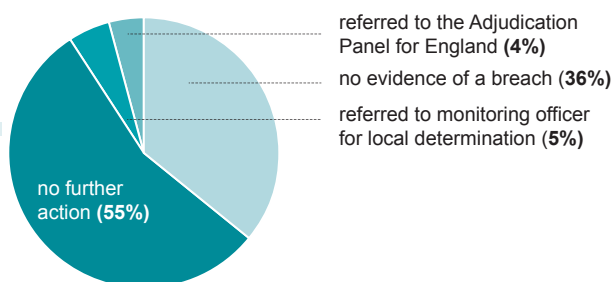
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



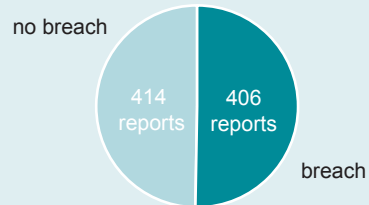
Final findings



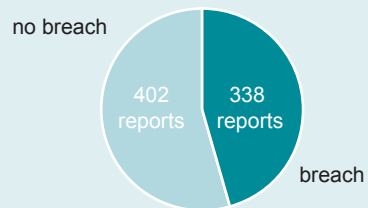
## Local investigation statistics

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

