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I am enjoying continuing to work with the local government community. Before joining The Standards Board for England I worked with the Audit Commission. Before that, I worked in local government for 20 years, latterly as a chief executive.

My immediate aim is to help build on the progress that has already been made in promoting ethical behaviour in local government. Over the past two years, the Code of Conduct has become established within local authorities as an essential tool in promoting good standards of conduct. We now need to develop our role from the initial one of helping with compliance to one of building stronger local cultures, supported by effective and stalwart local leadership.

It is important that The Standards Board for England focuses its resources where they are most effective, and an immediate priority is improving our throughput of cases.

We have already announced some measures to this end, including the recruitment of new colleagues both to refine our handling of new allegations and ensure investigations are conducted without delay. Other measures will be announced over the coming months, along with consideration of the ways in which we ensure that local authorities and their monitoring officers are able to put their local knowledge to good use and sort out the majority of standards issues themselves.

David Prince, chief executive

Judicial review upholds The Standards Board's discretion to investigate

A recent judicial review ruling found that The Standards Board for England has a wide discretion when deciding whether or not to investigate an allegation.

In April 2003, The Standards Board for England was served with a claim for judicial review against its decision not to refer a written allegation for investigation. The allegation concerned a member publicly making false testimony against a member of the public during a council meeting. The allegation was considered by the Board insufficiently serious to warrant an investigation, as allegations concerning charges of slander (without special factors) are not normally referred for investigation. The claimant challenged the Board at judicial review, arguing that the Board's decision was "unreasonable and irrational".

The Board defended its position, stating:

"It is well established that, where Parliament has conferred a broad and unfettered discretion on a public body, a claimant must surmount a high threshold in order to demonstrate that such a discretion was exercised unreasonably or irrationally."

The Board added that the claimant would need to point to specific features of his allegation to demonstrate that it was of such seriousness that The Standards Board for England could not rationally have decided that it did not warrant investigation. However, the Board believed there was nothing in the claim which demonstrated an arguable case of irrationality in failing to refer the allegation for investigation.

The presiding judge found in favour of The Standards Board for England, refusing permission for judicial review. The judge said:

"...the decision not to investigate the matter cannot arguably be described as irrational. The defendant [the Board] is given a wide discretion as to whether or not to investigate a complaint and it is not arguable that the only rational response to the complaint by the claimant was to investigate it."

Response given to public standards inquiry

The Standards Board for England has responded to the Committee for Standards in Public Life's Tenth Inquiry, describing how we have supported and promoted the Code of Conduct and have fulfilled the requirements of the three 'common threads', as set out in the committee's first report. The threads — consisting of codes of conduct, independent scrutiny and guidance and education — were established to ensure a common, acceptable standard of behaviour from those in public life.

The committee's Tenth Inquiry is examining the

effectiveness of measures enacted following previous reports on the maintenance of public standards.

The committee is considering whether the procedures and processes used to implement the common threads have been effective, proportional and not excessive to the objectives of the exercise. The review is therefore examining the role of the Code of Conduct, particularly in relation to the issue of proportionality in its coverage of all tiers of local government.

Building confidence in democracy

The practice of a uniform and consistently-applied code of conduct is described in The Standards Board for England's response as vital for members and their constituents to build confidence in democracy at the local level, and it points out the support for the Code of Conduct from a range of local government stakeholders.

The response describes how The Standards Board for England has met the expectations set out for independent scrutiny, noting that it has referred 2,270 allegations for investigation since the Code of Conduct was fully implemented in May 2002 — about 40% of the allegations received. The level of allegations illustrates serious concerns about probity in local government. The response also describes how we ensure that investigations are balanced between fairness, proportionality and thoroughness.

With regard to guidance and education, the response highlights how The Standards Board for England has proved particularly good at responding to the needs of members and officers in local government. This has been achieved through a comprehensive programme of guidance, information, visits and presentations, and a range of support for standards committees culminating in our popular annual assembly.

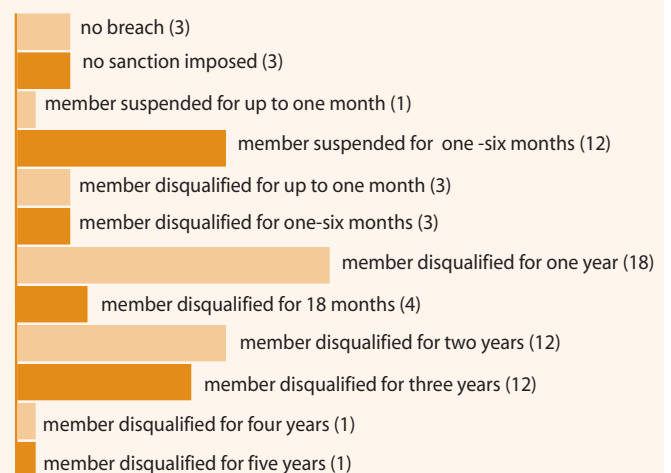
The full response is available from our website at:

www.standardsboard.co.uk/press/press_releases.php

Latest statistics from the Adjudication Panel for England

The Standards Board for England referred 89 cases for determination by The Adjudication Panel for England in the 2003–04 financial year. Of these, 17 have yet to be heard. The following chart shows The Adjudication Panel's decisions in the cases that have been heard.

The Adjudication Panel for England's decisions in cases that have been heard



Membership of trusts

Members that have been appointed or nominated by their authority to a trust or community organisation must still consider whether they have a personal or prejudicial interest in council discussions that relate to that organisation.

Just because a member has been appointed or nominated to that organisation by their authority, it does not automatically mean there is no conflict of interest. If the decision of the council will affect the business of the trust or community organisation, then the member will automatically have a personal interest, as membership of that organisation would be a registerable interest. It could potentially also constitute a prejudicial interest.

When deciding whether to declare a personal or prejudicial interest, a member should note the following:

- Each situation should be judged on its own merits.
- In some situations, paragraph 10(2) of the Code of Conduct may affect whether or not members regard themselves as having a prejudicial interest.
- Paragraph 10(2) does not grant a blanket exemption for any category of prejudicial interest. Although it says that members *may* regard themselves as not having a prejudicial interest in the listed circumstances, members must continue to exercise their judgment when deciding whether or not they have a prejudicial interest in specific circumstances.

Appeals against standards committee findings

Members who have appeared before their standards committee for determination can appeal against the committee's decision within 21 days following notice of the decision.

Sanctions applied against members by a standards committee come into force immediately and are not stayed pending the appeal. However, the standards committee does have the discretion to suspend or partially suspend the sanction while the subject member seeks an appeal.

How to appeal

Members should appeal in writing to the president of The Adjudication Panel for England, outlining the reasons for their appeal and stating whether they would like it to be carried out in writing or in person.

The president will consider whether there are reasonable grounds for an appeal. The member will receive notification of the president's decision within 21 days of receipt of the application. The president will also notify:

- the ethical standards officer concerned;
- the standards committee that made the original finding;
- the standards committees of any other authorities concerned;

- any parish councils concerned;
- the person who made the allegation.

The appeal hearing

If permission for appeal is granted, the president of The Adjudication Panel for England will arrange a tribunal to deal with the member's appeal. It will consist of at least three members of The Adjudication Panel for England, chosen by the president.

The member can be represented at the appeal hearing by counsel, a solicitor or any other person they choose. If they want to have a non-legal representative, the member must get permission from the tribunal beforehand. The tribunal may prevent that person acting as a representative if he or she is directly involved in the case.

The tribunal can choose its own procedures, but it is likely that the ethical standards officer, a member of the standards committee and the subject member, will be given the opportunity to make representations or be represented at the appeal hearing.

The appeal findings

The appeal tribunal will consider whether or not to uphold or dismiss part or all of the finding made by the standards committee. If the tribunal upholds the standards committee's finding (full or in part) it may:

- agree with the penalty set by the standards committee;
- ask the standards committee to set a penalty if it has not already done so;
- ask the standards committee to set a different penalty to that already set.

If the tribunal dismisses the finding of the standards committee, the decision and any resulting penalty will no longer apply. The standards committee must act on any directions given by the appeals tribunal.

More information on appealing against standards committee determinations, and a form to use when appealing a decision is available from The Adjudication Panel for England's website at:

www.adjudicationtest.com/index.php?page=Procedures

Are Board referral letters confidential?

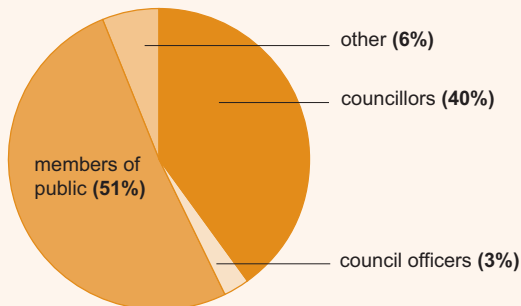
A number of members have asked whether the information contained in referral notification letters should be treated as confidential. For example, can a member with a letter informing them that the Board does not intend to investigate an allegation made against them, discuss the letter with others in order to counter any negative publicity?

When The Standards Board for England receives a new allegation, our Referrals Unit assesses it to determine whether it should be referred for investigation. We then send a written notification, including a summary of the

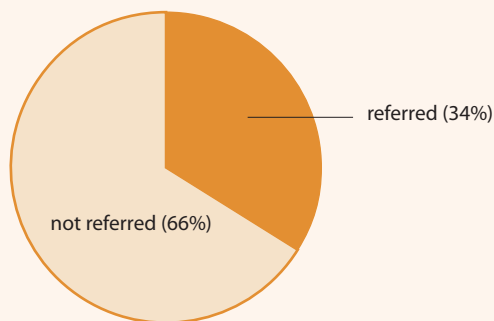
Referral statistics

The Standards Board for England received 444 allegations in March 2004, bringing the total number of allegations received in the 2003–04 financial year to 3566. The following charts show The Standards Board for England's referral statistics for the year.

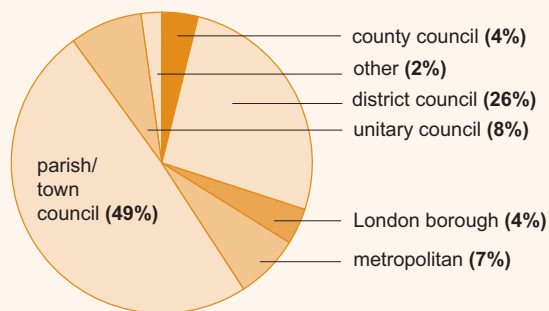
Source of allegations received



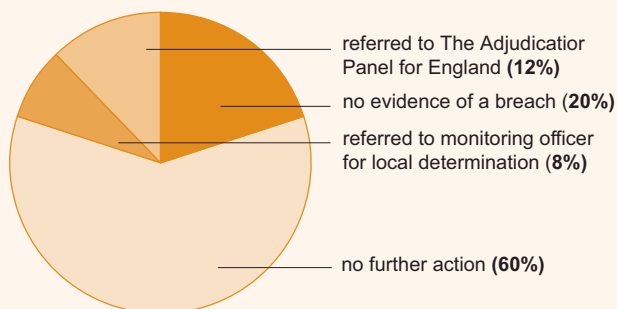
Allegations referred for investigation



Authority of subject member in allegations referred for investigation



Final Findings



allegation and our decision, to the following parties:

- the complainant;
- the member who is the subject of the allegation;
- the monitoring officer of the relevant authority;
- the parish clerk, if applicable.

Unless there are exceptional circumstances, we also disclose the name of the complainant to all parties.

The information contained in our notification letters is of a different nature to that contained in a draft ethical standards officer's report, which is protected under statute. Our notification letter is in the public domain, does not relate to an ongoing investigation and does not represent a finding of fact.

We mark these letters private and confidential to ensure that only the addressee opens them, much as a bank does with its statements. However, the Board cannot, and does not want to, control what the addressee chooses to do with them. We do, of course, urge all parties to use their judgment and consider the possible consequences when discussing Board decisions.

Recent cases

Member's improper behaviour leads to four-year ban

A councillor was banned for four years for failing to treat others with respect and for bringing his office or authority into disrepute. Over the course of a four-day conference, the member:

- repeatedly sexually harassed two women in attendance at the conference;
- persistently behaved in a threatening and aggressive way toward the women;
- failed to attend conference sessions;
- behaved in a way that led to his arrest and subsequent conviction;
- behaved inappropriately while he was in police custody.

The full case summary is available at:

www.standardsboard.co.uk/cases/authorities_s/S_SBE1295_02_2306_03A.php

Career opportunities at The Standards Board for England

We are currently recruiting a principal case referral manager and two case referral managers for our Referrals Unit. We are keen to attract strong applicants with relevant experience in local government, on either a permanent basis or on a period of secondment.

If you have any members of staff who you consider to have the necessary skills and who you think would benefit from the experience of performing these roles, please encourage them to apply for secondment.

More information on these positions is available from our website at:

www.standardsboard.co.uk/careers/jobs.php

Investigations roles

We are also in the process of setting up a short-term investigations team to expedite our investigations process and tackle cases that have not yet been assigned to an investigator. We anticipate that the team will consist of an ethical standards officer, investigation managers and investigators, and be in place for a period of up to one year. We will be recruiting for these posts soon and will consider secondments from local government to the team.

For more information, contact Victoria Bryan, senior HR adviser, on 020 7378 5090, e-mail:

victoria.bryan@standardsboard.co.uk

Complaints banner points surfers in the right direction

A web banner helping internet users find out how to complain about councillors' behaviour is available for use on your authority's website. Some monitoring officers may have received an e-mail about the banner from us in February.

The banner, shown on the right, is designed to help local authorities direct people that wish to complain about members' behaviour to the right place. It asks web users if they are 'unhappy with a councillor's behaviour?', then directs them to click on the image to find out how to complain.

It should point to our complaints page, where visitors can decide if they should make a complaint and, if they chose to proceed, how to go about it:

www.standardsboard.co.uk/complaints/

The banner is available in both horizontal and vertical formats to suit the requirements of your site.

Please let your web team know about the banner. For more information, or to request a copy, contact Mark Jefferson on 020 7378 5141, e-mail:

mark.jefferson@standardsboard.co.uk

