

You may have read recently that the Board has appointed David Prince as our new chief executive. David is currently director of strategy and resources at the Audit Commission and, for the past year, has taken the lead for the Commission on Comprehensive Performance Assessments. With over 20 years' local government experience, he will be a valuable asset to the Board. His past appointments include chief executive of Leicestershire County Council and director of finance and administration at Cambridgeshire County Council. He was also District Audit's first chief executive when it became an arm's-length agency in 1994.

David will take up his post in April. Until then, I will remain as interim chief executive in what is shaping up to be an exceptionally busy start to 2004.

One of David's priorities will be to continue to work in partnership with those bodies involved in the local government community, meeting regularly to discuss issues of mutual interest and concern. We had a productive meeting with the Association of Council Secretaries and Solicitors in January, on issues such as the handling of cases. We value this close relationship and are always open to constructive suggestions for how we can continue to help monitoring officers and others in their work.

Our aim is to build on these strong relations and continue to reach all parts of the local government community over the coming year. Although the Code of Conduct is now an established part of the local government landscape, wider ethical issues still need to be proactively promoted.

John Edwards, interim chief executive

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### Programme released for Code-cracking conference

Monitoring officers, members of standards committees and other local government professionals, are invited to 'Crack the Code' this September, at the Third Annual Assembly of Standards Committees. A full programme and online booking system for the conference were launched in January.

This year's conference addresses

several key issues: is everyone clear about the application of the Code of Conduct; what are the areas of difficulty; and how can the Code be improved? Delegates will be invited to confront these issues, identify areas for improvement, and debate the Code's role in the wider ethical framework.

The comprehensive programme of speeches, plenary discussions and workshops covers topics such as

82%

### Satisfaction sampled in monitoring officer survey

Monitoring officers are generally happy with the information and support given to them by The Standards Board for England, according to the results of a MORI research project into monitoring officer satisfaction. The findings will be used to shape our work in the future.

Findings from the survey show that:

- 82% of respondents were very or fairly satisfied with the published information and guidance provided by The Standards Board for England; 9% were dissatisfied;
- 72% of monitoring officers thought that the amount of information published by The Standards Board for England was about right; 24% wanted more;
- 78% of monitoring officers who used the website were either very or fairly satisfied with it; 7% were dissatisfied.

Data collection for the second stage of the project is now finished and further findings will be made available later in the year. Thank you to everyone who took part in the survey.

bullying, campaigning and planning. The *open house* Q & A sessions that proved so popular at the last Annual Assembly are back, giving delegates the chance to quiz panels of experts on Code-related queries. And there are new features too, including feature workshops: large-scale debates giving up to 500 delegates an opportunity to examine the key issues.

Guest speakers from the worlds of local government politics, journalism and academia are being lined up to share their views and lead discussion.

This year's big debate, which asks, 'is there any more to public service than making the trains run on time?', promises to be thought-provoking and lively. The names of speakers will be announced as they're confirmed.

The event will take place on 13 and 14 September 2004, at the International Conference Centre (ICC), Birmingham. The event is booking up fast; delegates are being encouraged to register as soon as possible to guarantee a place.

The programme, conventional booking form, and a link to the online booking form are available from The Standard Board for England's website, at:

[www.standardsboard.co.uk/events/index.php](http://www.standardsboard.co.uk/events/index.php)

### Court of Appeal ruling on prejudicial interests

A recent case for the Court of Appeal gave a very clear ruling on whether a councillor with a prejudicial interest could, nevertheless, attend a council meeting in a private or representational capacity. The case, *Richardson and Another vs. North Yorkshire County Council and The First Secretary of State*, concerned a planning application for a quarry extension.

Councillor Richardson was both the county councillor and parish councillor covering the area of the

proposed extension. His home was very close to the proposed extension of a quarry and was one of a handful of properties liable to be most affected by the development. Under the Code of Conduct, a councillor with a prejudicial interest is barred from attending a meeting where that interest is being discussed. Councillor Richardson claimed such a ban was unjust and denied his rights to represent his community and his rights as a private individual. The following issues were raised in the case.

### What is the meaning of 'member' in paragraph 12(1) of the Code of Conduct?

Counsel for Councillor Richardson argued that 'member', in this context, applied only to members who were part of the decision-making body. As Councillor Richardson was not on the planning committee he was not covered by the provisions of the Code of Conduct at the planning meeting, and therefore should have been able to attend the meeting.

The Appeal Court concluded that 'member' in paragraph 12(1) means all members of the council, not just a member of the relevant committee.

### Is a member, notwithstanding paragraph 12, entitled to remain at a meeting in a representational capacity?

The Appeal Court concluded that a member with a prejudicial interest in a matter has no right to attend a meeting by virtue of his representative role. It decided that the Secretary of State was entitled to introduce a code of conduct which had the effect of restricting a member's right to represent their constituents. It rejected the argument that a knowledgeable member of the public would reasonably have regarded Councillor Richardson as simply putting forward the views of the people he represented, or making a contribution to the debate based on his perception of the public interest,

rather than being influenced by the potential impact of the development on his own home. It stated that the personal interest was a highly-material, additional consideration, however conscientious a councillor might be in his representative role and his concern to protect the public interest.

**Is a member, notwithstanding paragraph 12, entitled to remain at a meeting in a personal capacity?**

Counsel argued that, even if Councillor Richardson did have a prejudicial interest, he did not want to attend the meeting as a councillor but wanted the right to attend as a member of the public and be able to make the same representations as an ordinary member of the public.

The Appeal Court ruled that a member of an authority attending a council meeting couldn't divest himself of his official capacity as a councillor, simply by declaring his attendance in a private capacity. He is still to be regarded as conducting the business of his office. Only by resigning can he shed that role.

**Was Councillor Richardson affected to a greater extent than his constituents, many of whom were opposed to the development?**

The Appeal Court decided yes. There was a group of people in the village, including Councillor Richardson, who were nearest to, and most liable to be affected by, the development. They therefore had a greater and special interest in the outcome of the planning application than other residents of the parish.

**Was Councillor Richardson properly regarded as having a prejudicial interest?**

Councillor Richardson claimed that he had been unlawfully excluded from the meeting. The Appeal Court said the initial and principal judgement on whether there is a prejudicial interest is for the individual councillor himself. But there comes a point at which it would clearly be irrational, and therefore unlawful, for the councillor to conclude that he does not have a personal interest under paragraph

8(1) and therefore, as the case may be, a prejudicial interest under paragraph 10(1).

The Board is currently considering what guidance to issue to members in the light of this judgement. We'll keep you updated in future issues of the *Bulletin*.

**Supporting parishes**

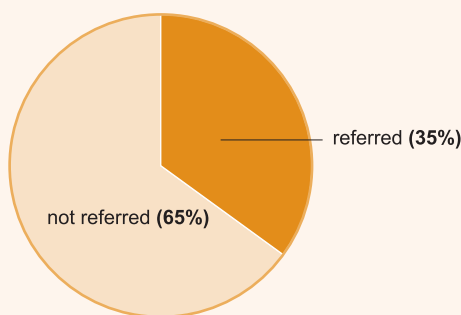
The importance of County Associations in supporting parish councils was highlighted in the initial findings of research into the needs of County Associations, commissioned by the Standards Board for England. The research noted how representative they are of parish councils and revealed the range of services they provide for parish councils.

The University of Gloucestershire and the Institute of Local Government Studies were commissioned to look at County Associations. We wanted to see how they can best be supported by The Standards Board for England in the provision of support and advice to

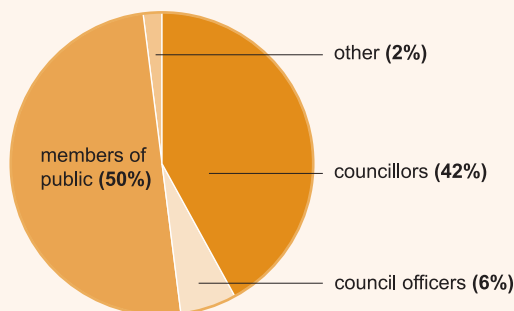
**Referral statistics**

The Standards Board for England received 327 allegations in December 2003, bringing the total number of allegations between 1 April 2003 and 31 December 2003 to 2567. The following charts show The Standards Board for England's referral statistics for that period.

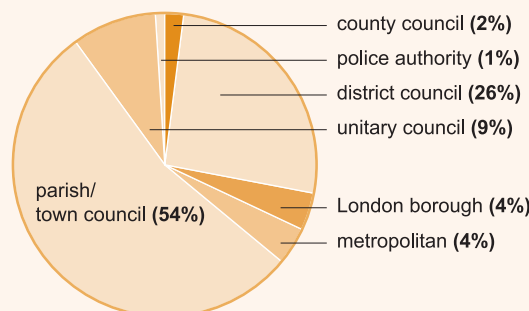
**Allegations referred for investigation**



**Source of allegations received**



**Authority of subject member in allegations referred for investigation**



parish and town councillors, and how effective they are.

Stage one of this research is now complete. It found that the majority of County Associations represent over 80% of parish and town councils in their area. Although they are not well funded, they provide a wide range of services to their members. For example, they disseminate information, respond to enquiries, provide training and make personal visits to parish and town councils.

A key issue for monitoring officers uncovered by the survey highlights the need for better working relationships. It found that County Associations that have well developed relationships with Monitoring Officers are more likely to offer effective support and advice to parish and town councils than those where relationships are fragmented. The research recommended the development of partnerships between County Associations, monitoring officers and other stakeholders as a way of helping address different parish issues.

The collection of data for the second stage of this project begins later this year.

### Draft regulations on their way

The Office of the Deputy Prime Minister is close to finalising the draft regulations on local investigations and will be consulting on them soon. We will be consulting on our draft guidance to the regulations at the same time, and look forward to your comments.

### Good-practice examples

The Standards Board for England is planning to produce good practice guides for people involved in administering the Code of Conduct and the wider ethical environment. As such, we are interested in hearing about any innovative protocols and guides that you think

would be useful to share on the following topics:

- member-officer relationships;
- standards committee procedures;
- member training;
- any other procedures that may have been developed in relation to the Code of Conduct by your authority.

Please send your examples to:

Michael Toft, policy advisor  
The Standards Board for England  
First floor, Cottons Centre  
Cottons Lane  
London SE1 2QG

email:

[michael.toft@standardsboard.co.uk](mailto:michael.toft@standardsboard.co.uk)

### Recent cases

Some of the more important cases considered recently by the Adjudication Panel for England are listed below.

#### Racist councillor banned

A councillor was banned for three years after he was found to be in breach of the Code of Conduct for making racist comments:

[www.standardsboard.co.uk/cases/authorities\\_r/R\\_SBE1906\\_02.php](http://www.standardsboard.co.uk/cases/authorities_r/R_SBE1906_02.php)

#### Councillor banned for accessing child pornography

A councillor was disqualified for five years after he was found to be in breach of the Code of Conduct for downloading and storing indecent images of children:

[www.adjudicationtest.com/documents/0153\\_final\\_reasoned\\_decision.doc](http://www.adjudicationtest.com/documents/0153_final_reasoned_decision.doc)

#### Three-year ban for bully

A councillor was disqualified for three years after he was found to be in breach of the Code of Conduct for aggressive, domineering and intimidating behaviour:

[http://www.adjudicationtest.com/documents/ape\\_105\\_decision.pdf](http://www.adjudicationtest.com/documents/ape_105_decision.pdf)

### Frequently asked questions

The following question on membership of the Freemasons — question 38 in the list of FAQs on our website — has recently been updated. We would be grateful if you could draw this advice to your members' attention.

Our website FAQs have now been updated to include questions from recent issues of the Bulletin. The new and amended FAQs are flagged in red and can be found at:

[www.standardsboard.co.uk/code\\_of\\_conduct/questions.php](http://www.standardsboard.co.uk/code_of_conduct/questions.php)

#### Does membership of the Freemasons need to be declared?

Yes. Membership of charities or bodies directed to charitable purposes must be registered in the register of interests in accordance with paragraph 15(c) of the Code of Conduct. As advised by the United Grand Lodge, when Freemasons pay their annual subscription fee to their respective Lodges, part of the fee goes automatically to the Freemasons' Grand Charity. Therefore, Freemasons must register membership of the Grand Charity on the register of members' interests and declare, when appropriate, their membership of the Grand Charity as a personal or prejudicial interest, before or during council meetings.

#### Does membership of political-party councillor associations need to be included in the register of members' interests?

Yes. Membership of councillor associations should be registered with the authority under paragraph 15(d) of the Code of Conduct.

Paragraph 15(d) requires the registering of membership of bodies 'whose principal purposes include the influence of public opinion and policy'. Political-party councillor associations fall under paragraph 15(d) and membership of political-party councillor associations therefore need to be registered.