

Swindon Borough Council

Standards Committee

Monday, 14 April 2008

Committee Room 1, Civic Offices (Anticipated meeting room)

At 5.00 p.m.

Councillors	Independent Members	Parish Representative
Melanie Duff Peter Stoddart (Deputy) (Conservative)	Mr Keith Carby (Chair) Mr Trevor Davies (Vice-Chair) Mr Paul Morris	Mr Mike Compton
Maurice Fanning Fay Howard (Deputy) (Labour)		
Martin Wiltshire (Liberal Democrat)		

(Copy to all other Members of the Council – For Information)

Committee Officer: Sarah Lawrence (Telephone 01793 463603)
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Swindon Borough Council can be contacted at the Civic Offices, Euclid Street, Swindon, SN1 2JH (Telephone 01793 463000)

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Members are requested at the start of the meeting to declare any known interests in any matter to be considered, and are reminded that any such interest should also be declared at the start of an item or during any discussion of the matter concerned.

3. Minutes (Pages 1 - 4)

To approve the minutes of the meeting held on 21 January 2008.

4. Public Question Time

(See explanatory note below. Please phone the Committee Clerk whose name and number appears at the top of this agenda if you need further guidance.)

5. Exempt Items - Exclusion of Press and Public

Certain items are expected to include the consideration of exempt information and the Standards Committee is, therefore, recommended to resolve "That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the items listed below, on the grounds that they involve the likely disclosure of exempt information, as defined in the respective paragraph of Part 1 of Schedule 12A of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

<u>Item No.</u>	<u>Paragraph No.</u>
7	1 and 2

6. Ethical Framework Update (DLDS-B) (Pages 5 - 36)

7. Ethical Framework Compliance Update (DLDS-B), (HIA-CE) (Pages 37 - 38)

4 April 2008 (being date of agenda despatch)

Key:

DLDS- B - Director of Law and Democratic Services
HIA-CE - Head of Internal Audit

Public Question Time - *Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.*

Access Arrangements - *The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

Standards Committee - Terms of Reference

The Standards Committee has the following roles and functions in accordance with Article 9 of the Council's Constitution:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;

- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) To also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) ensure the Council's complaints procedure operates effectively in relation to standards of conduct and behaviour of staff and in particular
 - receive annual reports on its operation
 - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
 - adjudicate upon all complaints which remain unresolved
 - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour
 - approve and publish an annual report upon the operation of the system;
- (m) report to the Council when it considers:-
 - standards of conduct and behaviour in a particular area need reviewing, and
 - the level of commitment necessary to resolve these difficulties should be greater;
- (n) approve and monitor the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (o) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (p) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member;
- (q) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

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STANDARDS COMMITTEE

MONDAY, 21 JANUARY 2008

PRESENT:- Mr Keith Carby (Chair), Mr Trevor Davies (Vice-Chair), Mr Paul Morris, Mr Mike Compton, Councillor Melanie Duff and Councillor Maurice Fanning.

17. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

18. Minutes

Resolved – That the minutes of the meeting held on 29th October 2007, be confirmed and signed as a correct record.

19. Public Question Time

No public questions were received during the meeting.

20. Exempt Items - Exclusion of Press and Public

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 10 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 25 refers.)

21. Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England

The Committee considered the Department for Communities and Local Government (DCLG) consultation paper 'Orders and Regulations Relating to the Conduct of Local Authority Members in England', for which a response was required by 15th February 2008. The consultation paper set out arrangements for a) local filtering of misconduct allegations, b) Standards Committee and Adjudication Panel issuing of penalties and sanctions, c) the new strategic role for the Standards Board, and d) other matters for the Standards Committee including granting dispensations, exemptions of posts from political restrictions and pay for political assistants. The Committee considered the report by the Director of Law and Democratic Services (Monitoring Officer) and a proposed response to each consultation question.

Resolved – That the Director of Law and Democratic Services (Monitoring Officer) be authorised to respond to the DCLG Consultation Paper as set out in the Monitoring Officer's report, subject to an additional comment on consultation question 16, that the date for Council implementation of the reformed conduct regime should be no less than 2 or 3 months after the introduction of the Regulations.

22.

Review of Council Codes and Protocols

The Committee considered a report of the Director of Law and Democratic Services, recommending that the Council Codes and Protocols at Appendix 1 be adopted as amended during the consultation period. In addition, the Committee considered representations received subsequent to the publication of the Agenda, including a request from Councillor Ford for a change to the Cabinet Role definition to include a specific requirement to consult with Ward Members, and comments from the Developers Forum held on 16th January 2008.

Resolved – 1) That the ‘Monitoring Officer Protocol’, ‘Guidance to Councillors on Dealings with the Media’ and ‘Protocol of Member / Officer Relationships’ be adopted as set out in Appendix 1 to the Agenda.

2) That the ‘Councillors Role Definitions’ be adopted as set out in Appendix 1 to the Agenda, subject to the following amendments, and to any amendments made by the Audit Committee to the new role definitions of ‘Chair of Audit Committee’ and ‘Member of Audit Committee’:

- ◆ The ‘Cabinet Role Definition’ be amended to include an additional duty as follows: “That the Cabinet Member must consult with Ward Councillors on any decision that affects that Councillor’s Ward, and have regard to any comments from Ward Councillors before a decision is made”.
- ◆ The ‘Non-Executive (Backbench Councillor) Role Definition’ duty no. 9 be amended as follows: “To represent Swindon Council to the community, and the community to Swindon Council, through various methods available and, in particular, to work with Parish Councils in parished areas”

3) That the ‘Members Planning Code of Good Practice’ be adopted as set out in Appendix 1 to the Agenda, subject to any further amendments to be made by the Director of Law and Democratic Services to include the followings:

- ◆ That the introduction be amended to include a request to send any complaints of breach of the protocol to the Monitoring Officer.
- ◆ Part 2, bullet 2 be amended to: ‘Don’t try to represent ward / local views, get another Ward / Local Member to do so instead, except where permitted under the Members Code of Conduct’.

4) That the Director of Law and Democratic Services be authorised to finalise the wording of the Codes and Protocols to take into account the above matters, and be requested to publicise the Codes and Protocols as necessary.

23.

Delivering Good Governance in Local Government

The Committee received a report from the Director of Law and Democratic Services and Head of Internal Audit on the new CIPFA / Solace discretionary Code of Corporate Governance Statement defining principles to underpin the governance of each local authority. It included a statutory requirement for the Council to publish an Annual Governance Statement, replacing the Statement on Internal Control, and a recommendation the Council’s prepare a Local Code of Governance. The matter had been considered by the Council’s Corporate Governance Working Group and the Audit Committee, who had made recommendations on how the Council might take the new framework forward, which the Standard’s Committee now endorsed.

Resolved: 1) That the Committee notes that the Corporate Governance Working Group have requested the Director of Law and Democratic Services and the Head of Internal Audit to review the existing governance arrangements against the Corporate Governance Framework published by CIPFA / SOLACE.

2) The Committee notes that the Corporate Governance Working Group have requested the Director of Law and Democratic Services to develop a Local Code of Governance, including arrangements for its ongoing application and effectiveness.

3) The Committee recognises the Audit Committee's role in recommending the approval of the annual governance statement, reporting publicly on the extent to which the Council complies with its own code annually, including how the Council has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period.

4) The Committee notes that the Corporate Governance Working Group, the Standards Committee, the Council's Corporate Board, the Cabinet, the Audit Committee and the full Council will all be involved in the reporting lines of the process associated with the preparation of the Annual Governance Statement.

24. Ethical Framework Update

The Committee received a report from the Director of Law and Democratic Services (Monitoring Officer) on Ethical Framework matters including: a) an update on Membership of the Committee, including a proposal to increase the number of Committee members in order to operate effective local filtering arrangements and for the Monitoring Officer to advertise for an additional independent member in April 2008; b) the Standards Board Bulletin for December 2007 (Issue 36); c) that the Council took part in a Standards Board pilot to test a new online submission system for imputing information on Standards Complaints, d) the next Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members Forum to take place on Friday 29th February 2008; e) that it was still planned to arrange a Standards Committee Conference later in the year; and f) an update on Members' training and development.

Resolved: 1) That the Ethical Framework update be welcomed and noted.

2) That the Corporate Governance Working Party be consulted on the recommendation to Council that the membership of the Standards Committee be increased from 7 to 11 members (2 Conservative Members, 2 Labour Members, 1 Liberal Democrat, 4 Independent Members and 2 Parish Representatives) to provide additional capacity to operate local filtering arrangements when introduced.

3) That the Monitoring Officer be authorised to advertise for up to two independent members for appointment from May 2008.

25. Ethical Framework Compliance Update

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) and the Head of Internal Audit, concerning the progress and outcome in relation to various ethical framework compliance matters which included a breakdown of the whistleblowing cases and outcomes dealt with during the last year. The Committee were pleased to note that there was a steady number of complaints received from officers, members and the public, showing that there was a wide awareness of the whistleblowing policy and that the procedure was working effectively.

Resolved: That the report be noted.

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Ethical Framework Update

Standards Committee

Date: 14 April 2008

Author: Director of Law and Democratic Services (Monitoring Officer)

Wards Affected: All

Purpose

- To provide an update on various matters related to the Ethical Framework.

Recommendation

- That the Ethical Framework update be welcomed and noted.
- That the Monitoring Officer be authorised to update the terms of reference of the Standards Committee, to take account of any changes to the remit of the Standards Committee arising from the Standards Committee (England) Regulations 2008 and the Local Government and Public Involvement in Health Act 2007.
- That the matters set out at paragraph 2.19 be incorporated in the Committee work programme for 2008/09.

1. Reasons

- 1.1 To keep the Standards Committee informed of issues of probity in the Council.

2. Detail

Anti-Fraud and Corruption

- 2.1 The quality of the 'anti-fraud and corruption' work done by the council was recently recognised by the Audit Commission when it assessed the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources. The Council was given top score (level 4) in this area and assessed as operating at well above minimum requirements and performing strongly. A more detailed report on this assessment will be presented to the next meeting.
- 2.2 As part of the anti-fraud and corruption work, a regular Fraud Bulletin is issued to officers and Members. The latest Bulletin contains a reminder of the Council's whistleblowing policy. It is important that members and employees act as the 'eyes and ears' of the organisation and that people have confidence that if they spot something that gives them cause for concern, they can report it via the whistleblowing 'hotline' and it will be

Further information on the subject of this report can be obtained from Sarah Lawrence on Direct Dial 01793 463603 or slawrence@swindon.gov.uk or Stephen Taylor on Direct Dial on 01793 463012 or Email staylor@swindon.gov.uk.

Ethical Framework Update

Standards Committee

Date: 14 April 2008

looked into and dealt with. The number of the 'hotline' and the Public Concern at Work number is given in the Bulletin. It was emphasised in the Bulletin that all whistleblowing matters are reported, suitably anonymised and in confidence, to the Council's Standards Committee and are monitored regularly.

Standards Committee (England) Regulations 2008, and the Local Government and Public Involvement in Health Act 2007

- 2.3 At the last meeting, the Committee responded to the Department for Communities and Local Government (DCLG) Consultation Paper entitled 'Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England'. The outcome of the consultation was intended to inform the detailed arrangements for putting into effect the orders and regulations to provide a revised more locally-based ethical regime.
- 2.4 The Standards Committee Regulations have not yet been issued at the time of writing this report, but are expected imminently. It is understood that it is intended that the powers concerned will come into effect on 1st May 2008. Draft regulations have been prepared, but are not yet generally available. If they do become available in the next few days they will be sent out to Members or circulated at the meeting.
- 2.5 A copy of the Local Government Information Unit's Policy Briefing on the Act that summarises and outlines the main provisions of the Council of the Local Government and Public Involvement in Health Act 2007 is attached at Appendix 1.
- 2.6 It is suggested that the Monitoring Officer be authorised to update the Standards Committee Terms of Reference as required to reflect any changes to the remit of the Committee arising from the Act and Regulations.

Membership of the Standards Committee

- 2.7 The Corporate Governance Working Party met on 18th March 2008 and endorsed the Committee's recommendation that the Standards Committee membership be increased by 4 members, to give a total membership of 11 members to take account of increased workload of initial local assessments of misconduct allegations. This is being referred to Cabinet on 16th April and Council on 24th April for confirmation.

Further information on the subject of this report can be obtained from Sarah Lawrence on Direct Dial 01793 463603 or slawrence@swindon.gov.uk or Stephen Taylor on Direct Dial on 01793 463012 or Email staylor@swindon.gov.uk.

Ethical Framework Update

Standards Committee

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- 2.8 An advertisement for up to two lay members has been issued, with a closing date of 11th April 2008, and interviews are due to take place in the week commencing 21st April 2008.

Parish Councils

- 2.9 Mr Mike Compton has been visiting Parish Councils as discussed at a previous meeting of the Standards Committee, to give a brief introduction to the work of the Committee, to discuss with Parishes how they are managing with the implementation of the New Code of Conduct, to discuss any issues or queries that have arisen, and to ask if the Council or Standards Committee can provide an additional help or support.
- 2.10 To date, Mr Compton has visited the Parish Councils of Blunsdon, Highworth, Stratton St Margaret, and Hayden Wick. He is booked to visit South Marston and Wroughton during May, and will report back to the Committee on any issues of note to date, and on any ways in which the Committee can increase its support for Parish Councils.

Standards Board Publications

- 2.11 Attached at Appendices '2' and '3' are the Standards Board Bulletin for February 2007 (Issue 37) and the Town and Parish Council Standards (March 2008) which include:
- The main provisions concerning the ethical framework that have recently been brought into force.
 - Examples of good practice in publicising the local assessment of complaints.
 - Information on prejudicial interests and setting the authority's annual budget.
 - An introduction to the Standards Board's new Chief Executive.
- 2.12 If any member of the Committee has any queries on any issue raised in these publications, these can be raised at the Committee meeting and prior notice thereof to the Monitoring Officer would be helpful.

Monitoring and Audit Pilot

- 2.13 In December 2007, the Committee Officer on behalf of the Monitoring Officer took part in a Standards Board pilot exercise to test and evaluate the new online submission system for imputing information on Standards complaints as part of the local filtering arrangements. The Monitoring

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Ethical Framework Update

Standards Committee

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Officer has agreed to be part of the next stage of pilot testing, which will take place between 7th and 18th April 2008.

- 2.14 The Standards Board has published on its website a training exercise for standards committees to help them practice the assessment of complaints. This is based on the pilot project which this Committee undertook last year and due to positive feedback received, an adapted version has been made available for use by all local authorities to train standards committee members for this new function. Having been part of the original pilot, it was not necessary for us to arrange for this exercise to be undertaken by the Swindon Standards Committee.

Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members' Forum

- 2.15 The last meeting of the Forum was held on Friday 29th February 2008, to be hosted by South Oxfordshire District Council. Minutes of the meeting are attached at Appendix '4'. Mr Trevor Davies attended from the Standards Committee and may wish to draw to the attention of the Committee any matters of interest.
- 2.16 The next meeting of the Forum has been arranged to take place at the offices of Cherwell District Council, Bodicote, Nr Banbury on Friday 26th September at 11 am.

Seventh Annual Assembly of Standards Committees – 13-14th October 2008

- 2.17 The Seventh Annual Assembly of Standards Committees will be held on 13-14th October 2008 in Birmingham. This year's conference is entitled 'Delivering the Goods' and will be developing exemplary standards committees, building public confidence in members and promoting good governance in partnerships.
- 2.18 Members are asked to contact the Monitoring Officer or the Committee Officer if they wish to attend, within the last 4 weeks, as bookings are beginning now.

Committee Work Programme Update

- 2.19 Two matters are outstanding from the work programme agreed by the Committee in July 2007 as follows:
- *Review of Hearings Procedure* – The Committee was scheduled to review its current procedure for Hearings at this meeting, but it was felt that this would be best delayed in order that the Committee can review

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Ethical Framework Update

Standards Committee

Date: 14 April 2008

its existing protocol and incorporate a new procedure and hearing arrangements for filtering of complaints at the same time.

- *Swindon Standards Committee Conference* – Further consideration is being given to arranging a specific Swindon Standards Committee Conference. Given the desire to focus any such activity on ‘Standards in Partnership’, opportunities will be sought over the coming months to engage with partners to see how best such an activity could add value and be effective in sharing good practice amongst partner organisations.

2.20 It is recommended that these matters be incorporated in the Committee work programme for 2008/09.

Alternative Options

- None

Risk Management

Financial and Procurement Implications

- There are no direct financial or procurement implications arising from this report.
- That there may be some increased costs to the authority associated with carrying out additional local filtering hearings. This has been highlighted to the Committee previously, and it is anticipated that these will met from the Committee Meetings budget or members allowances budgets as appropriate.

Legal / Human Rights Implications

- The Standards Committee (England) Regulations 2008, when received, will give effect to the provisions of Part 10 of the Local Government and Public Involvement in Health Act 2007.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

- Monitoring of issues of probity in the Council underpins the Council’s plans and policies and the delivery of the 2010 objectives.

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- Chief Executive
- Group Director, Business Transformation

Background Papers and Appendices

- Appendix 1 - Local Government Information Unit’s Policy Briefing on the Local Government and Public Involvement in Health Act 2007
- Appendix 2 - Standards Board Bulletin for December (Issue 37)
- Appendix 3 - Town and Parish Standard (March 2008 edition)

Further information on the subject of this report can be obtained from Sarah Lawrence on Direct Dial 01793 463603 or slawrence@swindon.gov.uk or Stephen Taylor on Direct Dial on 01793 463012 or Email staylor@swindon.gov.uk.

Ethical Framework Update

Standards Committee

Date: 14 April 2008

- Appendix 4 - Minutes of the Independent Members Forum – February 2008

Further information on the subject of this report can be obtained from Sarah Lawrence on Direct Dial 01793 463603 or slawrence@swindon.gov.uk or Stephen Taylor on Direct Dial on 01793 463012 or Email staylor@swindon.gov.uk.

LGIU Local Government Information Unit

Independent Intelligent Information

Local Government & Public Involvement in Health Act: the main elements (LGIUandSTEER)

6/12/2007

Author: Hilary Kitchen

Reference No: PB 1641/07L

This covers: England

Overview

The Local Government and Public Involvement in Health Act 2007 has now been published in final form. As yet, there are no explanatory notes available. When published, these notes should be a useful aid to grasping the intention of a substantial piece of legislation which often involves the extensive amendment of earlier Acts of parliament. (*now available through the attached link*)

The purpose of this briefing is to summarise and outline the main provisions in the new Act and to set the scene for the extensive range of materials connected with the Act that is expected over coming months.

A timetable is attached, which incorporates timescales for elections and executive arrangements referred to in the Act, with information based on strong indications of what can be expected from DCLG on Local Area Agreements.

The DCLG intends to publish a revised White Paper implementation plan shortly, although some deadlines are already in the public domain.

Information on forthcoming LGIU seminars which are relevant to the implementation of the legislation can be found in the accompanying link and at the end of this briefing.

The topics outlined below are:

- Elections
- Executive Arrangements
- Parishes
- Local Area Agreements
- Overview and Scrutiny
- Community Call for Action
- Byelaws
- Best Value: changes in regime
- Best Value: duty to involve
- Ethical Standards
- Political Restrictions
- Patient and Public Involvement in Health
- Other Points to Note

Briefing in full

Local Government and Public Involvement in Health Act 2007

The following gives an outline of the main provisions in the new Act.

Elections (Part 2)

The LGPIH Act makes provision for councils to vary the form of elections between whole council elections and elections by halves or thirds without having to seek approval from the Secretary of State. No specific guidance is planned, as the Act replicates the existing process that councils must follow to change their scheme of elections. A timetable is included in the attached document.

The Act also makes provision:

- for single member wards: councils can request the Boundary Committee of the Electoral Commission to review their electoral area with the intent of creating single member wards
- for local authorities to change the name of electoral areas
- for the date of local authority elections to be altered to match the date of elections to the European parliament, given six months notice.

The Act provides short windows of opportunity for councils to vary their scheme of elections, although this window can be expanded by the Secretary of State. These 'windows' can be repeated every fourth year.

Executive arrangements (Part 3)

The Act will make significant changes to councils' executive arrangements, providing for the adoption of either a leader-cabinet executive or mayor-cabinet executive. A third option, of a directly elected executive, was abandoned during the passage of the Bill.

Main features of the new arrangements:

- leader and cabinet executive: council elects the leader, who selects cabinet members
- mayor and cabinet executive: elected mayor selects cabinet members
- all executive responsibilities focused on the leader or mayor, who is responsible for own scheme of delegation
- both leader and mayor hold office for four years (which will be subject to provisions to deal with intervening events in the case of leaders).

Draft regulations covering when leaders of leader-cabinet executives must be elected, their length of office and the procedure for filling vacant posts are due to be published. Although still in development, it is expected that the regulations will be in force from May 2009. Thereafter, a statutory timetable imposes a series of deadlines for the adoption of new arrangements by different types of authority.

The Act makes it significantly easier for councils to switch between forms of executive. However, mayor-cabinet executives put in place as a result of a referendum will only be able to be changed after the result of a second referendum. If a council plans to switch

executive arrangements without a referendum a statutory minimum consultation period of twelve weeks will apply. A timetable is included in the attached document.

Parishes (Part 4)

The process for creating local councils will be easier under the new regime, and the Secretary of State's veto will be removed. The Act sets out detailed provisions, but in outline, principal councils will have the ability to start the review process leading to the creation of a parish council, which can also be triggered by a community petition. The review will make recommendations as to what new parish or parishes (if any) should be introduced, as well as considering the position of existing parishes. Groups of parish councils will be able to identify themselves as neighbourhood, community, or village councils. The Act will lift the current restriction on local councils in London.

Guidance on the undertaking and implementing of community reviews by principal councils, on appointed parish councillors and on the electoral arrangements for parish councils are all mentioned in the Act, however, no information about when these are due is yet available. It is expected that principal authorities will have to have regard to social cohesion in decisions about the creation of parishes.

The granting of a power of well being to certain eligible parishes will be welcomed by those to which it will apply. The criteria will be set in regulations, and a short consultation will be held before the provisions come into force in April 2008. The Quality Parishes Scheme will continue and is currently being reviewed. It is expected that many current Quality Councils will meet the guidelines for the well being power. Guidance will be published to coincide with the power coming into effect.

In addition, parish councils and parish meetings will no longer be subject to the best value duties.

Local Area Agreements (LAAs) (Part 5 – Chapter 1)

The Act requires councils to negotiate new LAAs with their respective government offices. A key feature of these new LAAs will be the reduction of the number of targets they are required to meet and the selection of those that they are from a national indicator set. For councils this will be a pressing concern given that these new LAAs are due to be signed off in June 2008 and consequently the process is already underway.

The attached document sets out when key developments regarding new LAAs are due to happen: a briefing dealing with the first stage guidance is attached.

Outline of the statutory requirements:

Building on the priorities identified by Local Strategic Partnerships, counties and all authorities with unitary responsibilities will lead partners in identifying Local Improvement Targets (LIT). These are targets for improving the economic, social, and environmental well-being of the area which relate to the responsibilities of:

- the local authority (including districts in two-tier areas)
- one or more partner authorities
- one or more other organisations that have responsibilities that are exercisable in the area.

Partners include district councils, public sector service providers, NHS providers, and a number of key public agencies and providers of certain government roles (such as skills, highways, and traffic, as listed in the Act).

Partners will be under a statutory requirement to cooperate in determining targets, which when agreed are submitted by the local authority to the Government Office in the form of a draft negotiated agreement. The draft is negotiated through Government Office, and individual targets may be 'designated', that is given statutory emphasis by the Secretary of State.

Once agreed, partners and local authorities must have regard to the targets. The local authority will publish a Memorandum of the LAA, which will be a public document. The LAA will be monitored and assessed through performance measures. The memorandum will:

- set out the Local Improvement Targets
- make clear which targets have been designated by the government
- make clear who is responsible for the targets.

Joint Strategic Needs Assessment (section 116)

Each local authority and primary care trust (PCT) will have a duty to prepare and publish a Joint Strategic Needs Assessment (JSNA) to identify and assess the short, medium and long-term health needs of each social care authority. In preparing the JSNA, local authorities and PCTs have a duty to cooperate and have regard to guidance issued by the Secretary of State for Health. County councils are also required to consult each district council. Draft guidance has been issued for consultation.

Overview and Scrutiny (Part 5 – Chapter 2)

The Act extends council scrutiny powers in a number of ways. These powers, to be introduced through regulations, are not yet in force. Overview and Scrutiny is expected to have a new locality focus with the increased potential for area based scrutiny reviews. The practical implications for local authorities have only just begun to be debated.

In the context of Local Area Agreements:

- County and unitary overview and scrutiny committees will be able to require information from LAA partners.
- Overview and scrutiny committees will be able to require a partner organisation to have regard to a report when carrying out its responsibilities.
- Joint committees made up of county and district representatives will also be able to exercise the same powers. These will be discretionary committees set up by agreement of the local authorities concerned.

The government is planning to consult on new scrutiny powers that would allow districts to carry out scrutiny investigations and require information from LAA partners with whom they have a direct relationship.

Overview and Scrutiny committees will also be able to call and question individual ward councillors who have exercised powers within their wards under arrangements made under section 236 (see below).

Community Call for Action (Part 5 – Chapter 2 - section 119)

The LGPIH Act enables all councillors (in England) to refer matters for overview and scrutiny. Implementation of what has become known as the Councillor Call for Action (CCfA) is expected by April 2008, following the publication of statutory guidance.

After pressure from local authorities the Government has agreed to align the previously separate versions of Call for Action processes. The procedure under Section 19 of the Police and Justice Act 2006 which set up the "Community Call for Action", will be brought into line with the simpler "Councillor Call for Action" (CCfA) in the Local Government and Public Involvement in Health Act.

The power to originate a CCfA rests with individual ward councillors, who will determine which issues to take forward. The CCfA may cover any local government matter relating to any function of the authority and affecting the councillor's ward or constituents (excludes quasi-judicial issues such as planning and licensing). In two-tier areas county councillors will be able to raise CCfAs in relation to crime and disorder matters.

Note too, in connection with the CCfA, that the Act provides for arrangements to be made for an individual councillor to exercise functions of the authority in relation to their electoral division or ward (see note on section 236 below).

Byelaws (Part 6)

The Act makes provision that councils will be given new powers to create byelaws and enforce them through the issuing of fixed penalty notices. These powers will come into force by Order, along with regulations as to their use. There has not yet been a decision as to whether statutory guidance will be issued to accompany these regulations.

The time table for the implementation of byelaws is as follows:

End of 2007 Consultation on the draft regulations surrounding byelaws and the issuing of fixed penalty notices.

April 2008 Regulations are scheduled to be issued.

Although the scope of byelaws will be more limited than the initial government consultation envisaged, this will be an important provision. It can be expected that the scope will expand as government gains more confidence in the process.

Best value: changes in the regime (Part 7)

The Act removes certain aspects of the best value regime in England, in particular the requirement on best value authorities to carry out best value reviews, and the framework of performance plans and indicators. It places a new duty on English best value authorities to actively involve representatives of local people in the provision of local services. It provides the Secretary of State with a new power to issue guidance to best value authorities on the general duty of best value. It gives Ministers the power to issue grants to promote or facilitate the economic, efficient and effective provision of services by best value authorities: a fuller explanation is needed of where this is likely to be exercised.

Best value: the duty to involve (Part 7)

Best value authorities (apart from police authorities and Welsh best value authorities) will be required to involve representatives of local people in the exercise of their functions, where they consider it is appropriate to do so. Authorities will be able to determine if and how representatives should be involved, taking account of guidance issued by the Secretary of State.

The duty to involve goes further than consultation, setting out three ways of securing the involvement of representatives of local people, informing them, consulting them or involving them in other ways. Authorities will need to provide support for the process that is adopted.

The duty is intended to represent a step change in the way in which councils, as best value authorities, engage with local people in the design and delivery of services, and the guidance can be expected to reflect this.

Ethical standards (Part 10 – Chapter 1)

These clauses give effect to the Government's proposal for the reform of the regime relating to standards of conduct for local government. Proposals for amendments to the regime were included in the Government's discussion paper Standards of Conduct in English Local Government: The Future, issued in December 2005. Decisions on action to be taken were then announced in the Local Government White Paper.

The proposals are aimed at devolving most decision-making on the conduct regime for local authority members to local authorities, with a revised, regulatory role provided for the Standards Board. The measures provide for local standards committees to make initial assessments of misconduct allegations and for review arrangements for those assessments which lead to no action being taken. The provisions also give powers for the Standards Board to suspend a standards committee's role in making initial assessments of allegations, and for the Board to issue guidance to standards committees and ethical standards officers.

Political restrictions (Part 10 – Chapter 2)

In addition, provision is made for decisions in respect of local authority posts subject to political restrictions to be undertaken by standards committees rather than, as now, by the Independent Adjudicator, and to enable the Secretary of State to issue an order to allow the maximum pay of political assistants to be linked to a point on a relevant pay scale specified by the order.

Patient and Public Involvement in Health and Social Care (Part 14)

The Act creates a new framework for consultation with patients and the public, with immediate effect. It requires social services authorities to recruit a local organisation to host a Local Involvement Network by 31 March 2008. The Act abolishes the CPPIH and all Patients' Forums with effect from 1 April 2008.

The main elements of the LINKs framework are:

Host organisations (section 22(1)): each social services authority procures an organisation or "host" to establish and support a Local Involvement Network (LINK) in each local authority area. The aim is for the host organisation to support the LINK which will:

- promote and support the involvement of people in commissioning, provision and scrutiny of local care services ("care services" refers to both health and social care)
- enable local people to monitor and review the standard of local care services and report on how they could be improved
- obtain the views of local people about their experience of local care services and their care needs.

The host must be independent of councils and health bodies. Local authorities, NHS trusts, NHS foundation trusts, primary care trusts and strategic health authorities are not permitted to provide support or become a LINK.

LINK structures: LINKs will be required to have a clear governance structure that includes the process for decision-making and defines how members are authorised to act on behalf of the LINK. Financial arrangements must be covered, as must how to deal with breaches of authority.

Responding to LINKs: Health and social care providers will be required to respond to requests for information from LINKs. Providers must also consider and respond to any reports and recommendations. Authorised representatives of LINKs must be allowed to enter and view premises on which care is delivered (but representatives will not be permitted to enter and view private rooms of individuals).

LINKs must produce an annual report giving details of their activities, their membership and their financial arrangements.

Relationship between LINKs and overview and scrutiny committees: LINKs are able to refer "social care matters" to the appropriate overview and scrutiny committee. Committees need not act on every referral, but they must acknowledge receipt and "keep the referrer informed of the committee's actions in relation to the matter".

Transitional arrangements: Where it has not been possible to set up by LINKs by 31 March 2008, local authorities will be subject to "temporary duty", prior to 30 September 2008, to ensure that there are means to support LINKs activities. Temporary arrangements could include the local authority providing support itself, or agreeing an interim contract with another organisation to provide support.

Duty to involve service users (Section 233) – All NHS bodies, including strategic health authorities, must make arrangements to involve service users and/or their representatives in the planning, delivery, development and decision-making in relation to health services. All health bodies must publish a report (expected to be annual) giving details of consultations it has carried out or proposes to carry out before making commissioning decisions. It must also report on "the influence the results of any relevant consultation had had on such matters".

Authority for local councillors to exercise functions (section 236)

This is an important provision that allows a local authority to make arrangements for an individual councillor to exercise functions of the authority in relation to their electoral division or ward. Regulations will define what can be covered by excluding certain functions, and placing conditions on how such a function is exercised. This form of delegation will be decided upon by the executive in relation to executive functions (the leader under the new executive arrangements). In all other cases, it will be for the authority itself to decide.

The regulations will also require records of decisions or actions taken by ward members to be made available to the public (section 237). Note also that Overview and Scrutiny Committees will be able to require such members to appear before the Committee to answer questions in relation to any functions that they exercise in their wards (section 120).

Other provisions to note

Joint waste authorities (Part 11)

This part of the Act will allow groups of local authorities that currently fulfil partial responsibilities to propose a joint waste authority. Applications will be made to the Secretary of State in accordance with a new regulatory framework.

Controlled entities (Part 12)

Regulations are planned that will introduce requirements, prohibitions or other regulatory measures covering local authorities' relationships with 'entities' with which they are closely connected. These provisions can be expected to cover bodies such as trusts.

Support from the LGIU

LGIU will be maintaining its briefing service informing and providing analysis on the implementation of the Act through policy initiatives, regulations and introduction of guidance. Implementation of the new Act will be a core theme of our seminar series in 2008.

The current seminar programme includes:

"Implementing the duty to involve" is a seminar to be held on 7 December at which we expect to examine the newly published draft guidance on the new duty with speakers from the DCLG and local authorities.

"New Local Area Agreements: an opportunity to deliver local sustainability" is a best practice seminar to be held on 13 December. Negotiating the new Local Area Agreements (LAA) is an ideal opportunity for local areas to mainstream sustainable development.

Our seminar on the Community Call for Action on 4 December is full, but you can look out for a repeat early in 2008.

Details of all seminars can be found through this link. You can also register to receive electronic alerts of forthcoming seminars through our website.

Additional Information

Covers

- Trade Union and Workforce issues
- Skills, Training, Economy, Environment, Regeneration (STEER)
- Democracy, Governance, Councillor issues, Standards board, Neighbourhood governance, Regional governance, Local government information
- Corporate management, Audit and Inspection, Evaluation, Targets, Procurement
- Community planning and well-being
- Community involvement, Partnerships and LSPs, Voluntary sector

Question

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Related links

- [The Act](#)
- [LGU events calendar](#)
- [Explanatory Notes](#)

Documents

- [some key timetables](#)

Related briefings

- [Negotiating New Local Area Agreements](#) 

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Welcome to Issue 37 of the *Bulletin*.

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

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

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

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

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

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



David Prince
Chief Executive

Government's consultation on new regulations and orders

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

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

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

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

Guidance on the local framework

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

The published guidance will consist of five parts:

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

- local determinations
- monitoring and audit arrangements

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

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

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

Provisions concerning the ethical framework recently brought into force

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

(1) Provisions brought into force on 31 January 2008

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

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

(2) Provisions brought into force on 1 April 2008

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

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

- Section 203 makes amendments in consequence of Section 202.

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

Publicising the local assessment of complaints

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

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

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

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

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

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

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

Independent members and parish representatives in the local framework

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

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

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

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

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

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

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

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

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

New reporting system for authorities on local assessment

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

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

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

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

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

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

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

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

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

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

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

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

Prejudicial interests and setting the authority's annual budget

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

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

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

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

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

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

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

Appeals to the Adjudication Panel for England

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

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

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

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

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

The website address is www.adjudicationpanel.co.uk, and the office of the Adjudication Panel can be emailed via 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 – 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

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

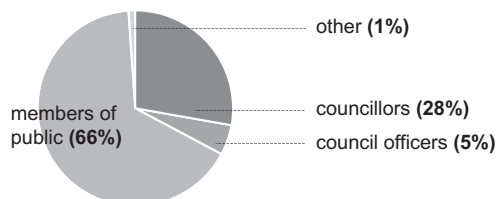
both the vital support and the independent, national oversight needed to make the locally-based ethical standards system work."

Referral and investigation statistics

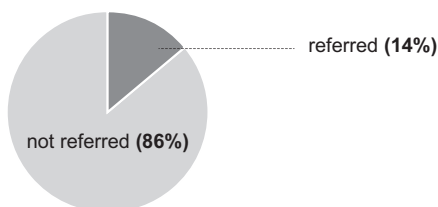
The Standards Board for England received 2,869 allegations between 1 April 2007 and 31 January 2008, compared to 2,819 during the same period in 2006-07.

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

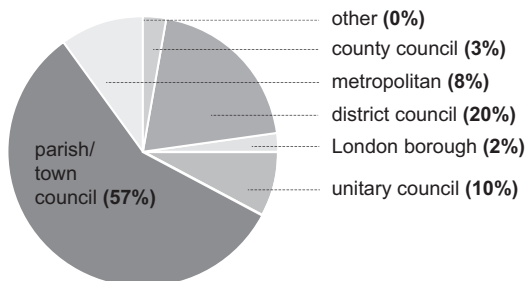
Source of allegations received



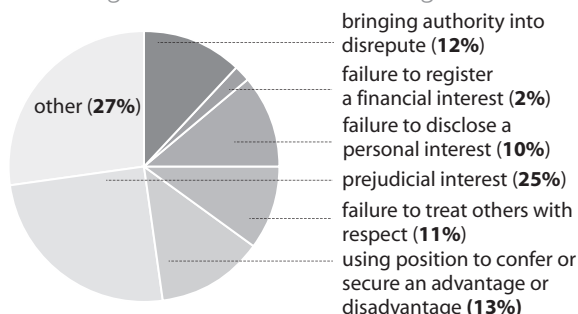
Allegations referred for investigation



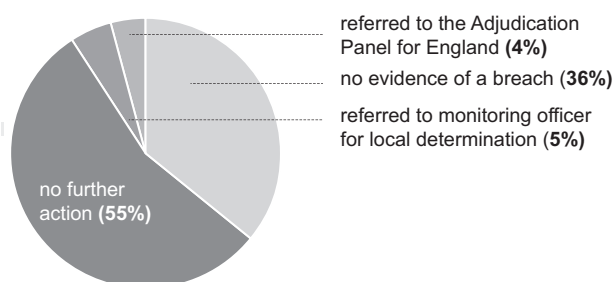
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



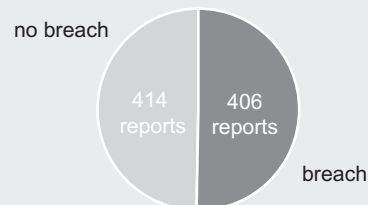
Final findings



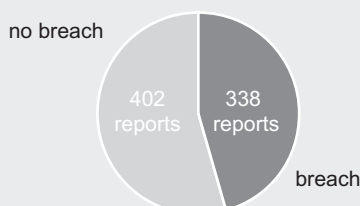
Local investigation statistics

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





Welcome

This will be the last time I write to you as Chief Executive, as I will be retiring in June this year. My successor is Glenys Stacey and she takes up her post in April, allowing for a substantial and detailed handover.

Glenys is experienced in the public sector. She is a solicitor and former Chief Executive of the Criminal Cases Review Commission. She will come to the Standards Board for England from her latest role as Chief Executive of Animal Health. Her various duties have included heading the country-wide field response to animal disease outbreaks.

I am sure Glenys shares my commitment to the work of parishes and will continue to champion this area of work. I wish her every success.

I have taken great pleasure in working with colleagues in town and parish councils over the years, and have spoken with many of you at various conferences. There was some concern when parish and town councils were included in the Code of Conduct back in 2002. However, recent research has shown that most of you feel you should be covered by the Code, and that by and large it has been positive.

There has rightly been a growing emphasis on the role of parishes with the Local Government and Public Involvement in Health Act 2007, devolving even more powers to parishes and town councils. Our lead article discusses the changes to the standards framework. These firmly place responsibility for standards where they belong – at the heart of local government.



David Prince
Chief Executive

Changes to the standards framework

The Local Government and Public Involvement in Health Act 2007 means local standards committees will make initial assessments of misconduct allegations, and that most cases will be handled locally. We will supervise, support and guide local authorities and take on a new regulatory role.

We believe that the local system will improve public confidence by demonstrating transparency and accountability in decision-making, and allowing local ownership of standards.

Key features of the new system are:

- Standards committees, chaired by an independent member, will be responsible for receiving allegations in relation to the Code of Conduct. They will also decide whether any action needs to be taken. This is referred to as 'local assessment'.
- Where the standards committee decides action is needed, the cases will be passed to the local monitoring officer for investigation, or for any other action the committee feels appropriate.
- Standards committees will be responsible for reviewing any request from a complainant, either

to review a decision or to take no action in relation to a complaint.

- The Standards Board will be responsible for supporting and monitoring local arrangements, and will continue to be responsible for carrying out those investigations which cannot be carried out locally.
- Each standards committee will need an independent chair. We advise each committee to have at least three independent members and, if the authority is responsible for parish councils, at least three parish or town council representatives. This is so that the standards committee has a different independent member, and parish representative if applicable, available to assess and review complaints. It also ensures the standards committee still has flexibility if an independent member or parish representative is unavailable.

For more information please see the local assessment section of our website:
www.standardsboard.gov.uk

LATEST NEWS

- We have published a training exercise for standards committees, which aims to prepare them for the forthcoming changes to the standards framework. It consists of anonymised complaints that will give standards committees practice at operating the appeal mechanism. You can find the exercise in the local assessment section on our website.

Standards Board guidance

We are producing a range of guidance on the new framework in preparation for local assessment.

The guidance is subject to regulations supporting changes to the framework. We are working to publish each part of the guidance as soon as possible after the regulations are confirmed. We will also produce a binder of all the guidance in a loose-leaf format, which will let us make amendments over time if necessary.

The guidance will focus on:

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

Capacity-building bid

The Standards Board has been working with some of its partners in planning for the implementation of a capacity building bid.

The bid has two strands. The first is a compact, which will see county associations working with standards committees and monitoring officers. The National Association of Local Councils (NALC) will lead this programme and has already contacted some of you directly to get involved. We expect this programme will run from June to December 2008.

The Improvement and Development Agency (IDeA) will lead the second strand – a peer mentoring programme. Here, mentors in principal authorities, and towns and parishes, will work with parish and town councillors in supporting and strengthening leadership. This will run from September to November 2008.

Contact the Standards Board

Tel: 0845 078 8181

Fax: 0161 817 5499

Minicom: 0161 817 5449

Web: www.standardsboard.gov.uk

Email: tpstandard@standardsboard.gov.uk

Independent Members' Forum

Berkshire, Oxfordshire and Wiltshire Standards Committees

**Notes of a meeting of the Forum held at South Oxfordshire District Council
Offices, Crowmarsh Gifford, Oxfordshire on Friday 29 February 2008.**

Present:

Gordon Anderson	Independent Member	Bracknell Forest
Albert Gregory	Independent Member	Royal Berkshire Fire Authority
Michael Field	Independent Member	Slough
Paul Lipscomb	Independent Member	Slough
John Bingham	Independent Member	West Berkshire
Roger Sparrow	Independent Member	Windsor & Maidenhead
David Comben	Independent Member	Wokingham
David Soane	Independent Member	Wokingham
Anita Grosz	Independent Member	Wokingham
Colin Lawley	Principal Solicitor	Wokingham
Douglas Frewer	Independent Member	Cherwell
Sadie Reynolds	Independent Member	Cherwell
John Lay	Independent Member	Oxford City
Jeremy Thomas	Monitoring Officer	Oxford City
Tony Clarke	Monitoring Officer	Oxfordshire County
Ann Griffiths	Independent Member	Oxfordshire County
Margaret Reed	Monitoring Officer	South Oxfordshire
Malcolm Butler	Independent Member	South Oxfordshire
Kathy Fiander	Democratic Services Officer	South Oxfordshire
Caroline Redzikowska	Monitoring Officer	West Oxfordshire
Margaret Thompson	Independent Member	West Oxfordshire
James Carine	Independent Member	North Wiltshire & Wilts Fire
Rodney Job	Independent Member	Salisbury
Trevor Davies	Independent Member	Swindon
Tony Frost	Independent Member	West Wiltshire
Keith Shipman	Independent Member	Wiltshire County
Isabel McCord	Independent Member	Wiltshire County
John Adams	Independent Member	Wiltshire Police
John Williams	Standards Board	
Josephine Simpkins	Standards Board	

Apologies for absence:

John Hicks	Independent Member	Reading
Frederick Ashmore	Independent Member	Slough
James Rees	Independent Member	West Berkshire
Tracey Allen	Monitoring Officer	Windsor & Maidenhead
Helal Stephan	Independent Member	Windsor & Maidenhead
Karnail Pannu	Independent Member	Windsor & Maidenhead
Chris Ballinger	Independent Member	Oxford City
Meryll Dean	Independent Member	Oxford City
Martin Gardner	Independent Member	Oxford City

Ann Gwinnett	Independent Member	Oxford City
Fred Mogridge		Oxford City
William Reed	Democratic Services Manager	Oxford City
Stuart Harrison	Independent Member	West Oxfordshire
Gordon Halliday	Independent Member	West Oxfordshire
Keith Butler	Deputy Monitoring Officer	West Oxfordshire
Alan Savill	Independent Member	Kennet
Bob Philpott	Independent Member	North Wiltshire
Peter McGuigan	Independent Member	Wiltshire County (& Berks Fire)
Catherine O'Sullivan	Independent Member	Wiltshire County
Anthony Hadfield	Independent Member	Wiltshire Police
P Cleasby	Independent Member	Thames Valley Police

1. Welcome

Mrs Sylvia West, Independent Chairman of the South Oxfordshire District Council Standards Committee, welcomed participants to the meeting.

2. Notes of the previous meeting

The Forum received the notes of the previous meeting held on 19 October 2007.

3. Standards Board for England

John Williams and Josephine Simpkins, policy advisors at the Standards Board for England updated the Forum on current issues.

The Department of Communities and Local Government (DCLG) had just finished consulting on new regulations for the implementation of the local assessment framework. The Standards Board had submitted a response as a consultee. They had also worked with the government on making the regulations as user-friendly as possible. The DCLG should be preparing the regulations to lay before Parliament, but the Board had received no information about any changes or when the regulations would come into force.

It was possible that the implementation date for local assessment would now be 1 May, especially as the regulations had not been published yet. The Standards Board had a dedicated local assessment section on their website and would update it once they had more information. This section would also disseminate guidance, information about best practice and sample complaints. Advice on mediation would form part of the guidance.

Forum members felt that 1 April was too soon and a three month delay might be preferable to allow for recruitment and training of new committee members.

Consultation on the code of conduct had been put back to May at the earliest because of the work on local assessment and the ethical framework.

The Board's role would change under the new arrangements. Standards committees were able to undertake their role effectively now. They needed to have arrangements in place to deal with complaints as soon as local assessment started. The Board would provide strategic support and guidance, monitoring and quality control, a helpline, networking contacts, and consideration of cases referred by committees. Monthly bulletins would still be produced, and the annual assembly held.

The Board would not automatically investigate cases referred to them and expected only 'too hot to handle' cases and those where there was a conflict of interest to be referred. There were a number of sanctions open to the Board in cases where standards committees were not operating effectively, but it was unlikely these would be needed.

Standards committees would have to produce an annual report for the Standards Board and the public in a format yet to be agreed. Copies of the Slough Borough Council annual review were circulated by Paul Lipscombe for information.

Initially, complaints from the public would still go to the Board. These would not be passed on but referred back to the complainant to re-send to their local committee. At this stage, committees needed to remember they were not investigating the case but simply whether the allegation disclosed a breach of the Code of Conduct. If the committee decided that it did, then it had a number of options including mediation, training, referral or investigation.

Committees must keep to the statutory timescales. Memberships of the initial sub-committee considering the complaint and the appeals sub-committee must not overlap, but membership of the committee considering an investigation could overlap with either. Authorities might want to consider joint arrangements, especially for the appeal stage.

Some complaints may seem trivial at the initial stage, but if more information were provided with an appeal, the committee may decide to investigate. In the pilots, committees were more inclined to refer 'grey area' cases than the Board.

The Board had suggestions for recruiting independent members, including articles in local papers, radio adverts and new items, or recruiting from the police or fire authority independent members.

The meeting broke up into three groups to determine whether to refer for investigation four of the sample cases provided by the Board for training on the local assessment process. After discussion, Mr Williams and Ms Simpkins led the discussion and feedback.

4. Open Forum

The meeting thanked Mr Williams and Mr Simpkins for their input, South Oxfordshire District Council for hosting the meeting, Mrs Kathy Fiander for the administration, and Mrs West for chairing the meeting.

5. Date and venue for the next meeting.

26 September 2008 at Cherwell District Council offices.

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Agenda Item 7

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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