

Town and Parish Standard:08

November 2006 | www.standardsboard.co.uk/tpstandard/

tel: 0845 078 8181 | email: tpstandard@standardsboard.co.uk

in this issue...

- 1 **The new Code of Conduct: key changes**
- 3 **Developing good local governance**
The bid for programmes to support town and parish councils.
- 4 **The referrals process — what types of complaints don't we refer?**
- 4 **Moving forward with town and parish councils**
Standards Board initiatives.

plus...

- 3 **Referral and investigation statistics**

Contents

Welcome to the eighth issue of the *Town and Parish Standard*.

You may have met Standards Board for England staff recently when we attended this year's National Association of Local Councils (NALC) conference. The conference provided a good opportunity for us to engage openly with a number of you to hear what we are doing well, what we could do better, and how we can help you further in the future. There was considerable discussion around the new Code of Conduct and how distinct this would be from the present one. Overall, many of you welcomed our proposals for the revised Code and felt that it would help clarify a number of areas, most notably around declaring interests.

We were also present at all of the recent party conferences and again were able to have interesting discussions about our work with those of you we met. You may be aware that a group of Conservative MPs, called the Cornerstone Group, recently published a paper on the workings of the Standards Board entitled *A Question of Standards: Prescott's Town Hall Madness*. The paper contained a number of misinterpretations regarding the workings of the standards framework, monitoring officers, and the Standards Board, and we have responded to the paper on our website — to read this response, please visit www.standardsboard.co.uk/pressoffice and click on 'current press releases'.

This issue of the *Town and Parish Standard* should help to clarify some of the key changes in the Code of Conduct that we anticipate coming into effect next year. It looks at what types of complaints we have declined to refer for investigation and discusses what we are doing to support the work of parish and town councils across England. Don't forget you can contact us at any point to find out more about our work and about the Code — see the end of this newsletter for contact details.

The new Code of Conduct: key changes

As this edition of the *Town and Parish Standard* goes to print, the Department for Communities and Local Government is preparing to release a revised Model Code of Conduct for public consultation. As reported previously in this newsletter, the government agreed to implement all of our recommendations for the new Code, and we have been working with them towards its introduction in time for the elections in May 2007.

The headline recommendation to ministers last year was to make the Code of Conduct clearer, simpler and more positive. Although we don't yet have the exact wording of the new Code, we would like to take this opportunity to explain the key changes that we anticipate coming into effect, and to help town and parish councils participate in the public consultation.

Public service interests

Our major concern has always been that the interests regime, whether in reality or perception, was over-restrictive and prevented councillors from

properly representing their communities. To help address this issue, a new category of public service interest is proposed. Under the proposals, members who serve on another public body (known as dual-hatted members) would normally simply need to register this interest on the member's register of interests. Only if they want to speak in connection with the matter would they need to declare an interest. This proposal aims to cut down the number of declarations that need to be made at the start of meetings.

Also, members would not have to declare a prejudicial interest unless there is a genuine conflict of interests between the parish council and outside body, and the matter under discussion relates directly to the public body on which the member serves, for example, a grant application or regulatory decision which has an immediate effect on the body.

"Our major concern has always been that the interests regime, whether in reality or perception, was over-restrictive and prevented councillors from properly representing their communities. To help address this issue, a new category of public service interest is proposed."

Under the existing Code, members with prejudicial interests arising from their service on another public body must leave the meeting when the relevant item begins to be discussed.

Under the revised Code, even where it is a prejudicial interest, dual-hatted members would be allowed to address the meeting and answer questions before withdrawing prior to the main discussion.

In addition to those members who have a public service interest, members of charitable bodies and lobby groups would also benefit from the same rules and would only be prevented from voting when a matter directly affects the organisation they represent.

Disclosure of confidential information

We have proposed that, under the revised Code, 'confidential' information can, in certain circumstances, be disclosed in the public interest.

We are preparing guidance to be published when the revised Code comes into force, which will explain the public interest disclosure provisions more fully.

This will help in determining whether a disclosure is in the public interest (including how to determine the reasonableness of a disclosure of confidential information) and when it is not, for example if it is related to specific details of ongoing contract negotiations.

Bullying

Bullying, although rare, is a serious issue for local authorities. It is extremely unpleasant for the people on the receiving end, and it can also have a corrosive effect on the organisation and ultimately affect the authority's performance — especially as there may not appear to be a straightforward way to resolve the situation.

As a result of general concern in local government about instances of bullying, and the need to prevent and deal with it, a specific reference to bullying will be featured in the revised Code.

We will be producing guidance after the new Code comes into force which will set out what conduct might constitute bullying, how to prevent bullying, and how to provide evidence of bullying.

Disrepute

The Standards Board recognises the view expressed by some that only misconduct which relates to official duties should be regarded as capable of bringing the authority into disrepute.

However, in line with the majority of views received during consultation, we believe that the Code of Conduct should continue to cover certain behaviour outside of official duties, but that this should be limited to unlawful conduct.

The Standards Board therefore proposes that the provision relating to disrepute in the original Code is clarified, so that only unlawful activities such as criminal or cautionable offences committed outside of a member's official duties are subject to the Code. Civil matters or merely objectionable conduct in private will not be covered.

Next steps

We anticipate that the government will announce a timeframe shortly for the introduction of the revised Code. We are keen to see the changes implemented as soon as possible, but have also stressed the importance of getting the details right.

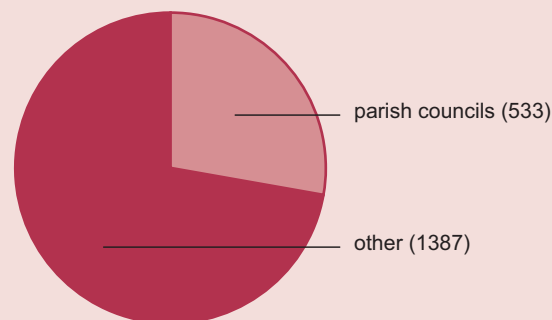
When the new Code comes into force, the Standards Board will produce guidance to help you navigate it, including a new DVD to examine the Code in greater detail, as well as the specific guidance mentioned above.

Parish and town council referral and investigation statistics

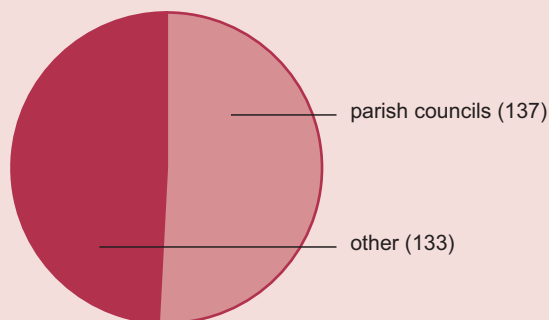
The following charts compare the parish experience with that of other local authorities, for the period 1 April 2006 to 31 August 2006.

Key ■ parish councils ■ other

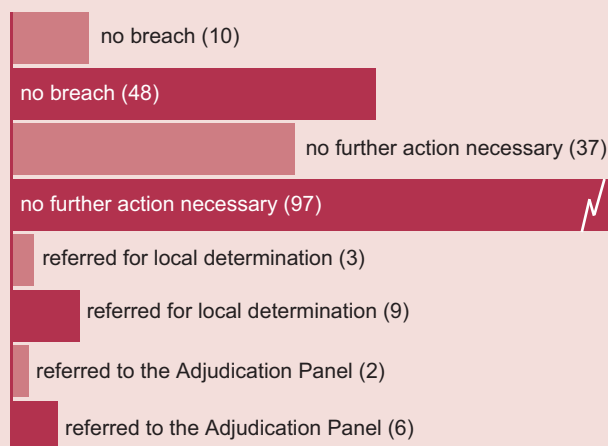
Number of allegations received (total: 1920)



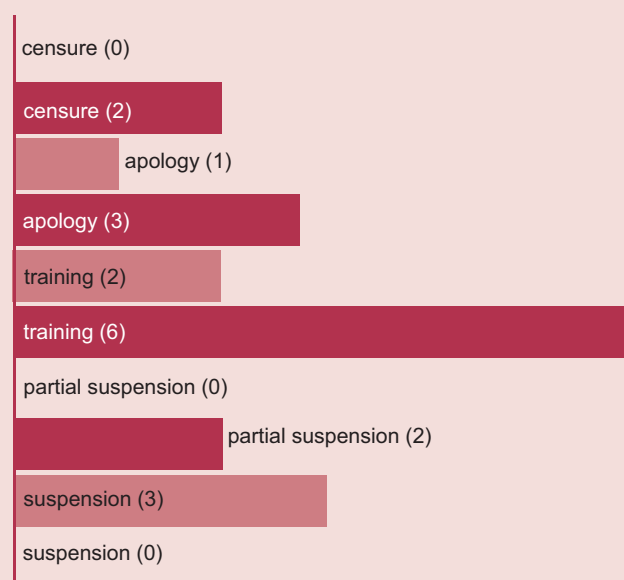
Number of allegations referred for investigation (total: 270)



Ethical standards officers' final findings



Standards committee determinations in cases that have been heard



In some of these cases, the member concerned had been given a sanction of more than one description. None of these hearings resulted in a finding of no breach or no sanction.

Developing good local governance

The Standards Board, the NALC, the Society for Local Council Clerks (SLCC) and the Improvement and Development Agency (IDeA), are submitting a joint bid to the Department for Communities and Local Government (DCLG) for funding for three projects aimed at supporting the work of parish and town councils and encouraging high standards.

The first is a peer-mentoring programme, which will match existing trained councillor mentors with other parish and town councils to share knowledge around good practice.

Secondly, an ethical governance toolkit will be developed to give good practice advice on how to make parish councils work more openly and effectively, and to help parish councillors in their day-to-day roles. The third programme will develop a model compact to encourage greater partnership working between county associations of local councils and the standards committees of principal local authorities in their areas.

Look out for the next edition of this newsletter for an update on this bid and details of how you could get involved if it is successful.

The referrals process — what types of complaints don't we refer?

The Standards Board is obliged to consider every complaint made to us in writing and decide whether to refer it for formal investigation. One purpose of the referral process is to filter out those that do not merit investigation.

With plans for authorities to receive and filter complaints from 2008, we thought it would be useful to look at some types of complaint that we have recently declined to refer for investigation.

Complaints about the council or council officers

We frequently receive complaints that councillors have breached the Code of Conduct when in actual fact the substance of the complaint is about dissatisfaction with a decision taken by the authority as a whole. This can be seen in a recent complaint about play parks.

The complainant related his various concerns over a parish council's actions in respect of the play parks and stated that his complaint was against the chair of the parish council because, as chair, "he is responsible for all decisions and actions taken by the council". We did not refer this matter for investigation, as we do not have jurisdiction to investigate the merits of decisions taken by an authority and cannot hold individual councillors responsible for collective decisions.

Complaints about correspondence

Another common complaint that we generally do not investigate concerns members failing to provide a substantive response to correspondence. For example, a member of a London borough was alleged to have failed to give a meaningful response to the complainant's many emails, and to have decided to deal with future correspondence from the complainant under the council's vexatious correspondence procedure.

In deciding not to investigate this, we noted that councillors are entitled to invoke their authority's vexatious correspondence procedure if they feel it is appropriate, and it is not for the Standards Board to comment on the appropriateness of this decision. We also noted that the Code does not require members to respond to every item of correspondence.

Complaints about pre-Code incidents

We often get complaints about actions that occurred before the Code of Conduct was adopted or before the individual in question was elected. One case of this nature concerned recent publicity in the local

press over a district councillor's conviction, 20 years ago, for the theft of a small sum of money. The complainant alleged that by being a convicted thief the councillor in question had brought his authority into disrepute. We noted that the Standards Board does not have jurisdiction over matters that occurred before the adoption of the Code of Conduct.

Moving forward with town and parish councils

In addition to the capacity-building bid discussed above, other Standards Board initiatives are taking place specifically in relation to individual parishes.

Where we have concerns about the number of allegations we have received about a particular parish, we will assess whether there may be ways, other than simply investigation of individual members, of solving the problems. If so, we will get in touch with key local people such as the county secretary, standards committee chair, Society for Local Council Clerks representative and monitoring officer to see if we can develop an action plan.

The action plan may involve specific training programmes, mediation services or other activities. It has already helped to develop local solutions in a number of areas to address deep-seated problems and we hope to be able to expand our capacity to support local solutions in the coming years.

Contacts and more information

We would like your ideas and suggestions for future newsletters, along with any questions or feedback. Please send comments to:

- tpstandard@standardsboard.co.uk
- The Standards Board for England
First floor, Cottons Centre
Cottons Lane
London SE1 2QG

More information

You can get more information on the Standards Board for England and the Code of Conduct, including case summaries, frequently asked questions and guidance for members, from our website at:

www.standardsboard.co.uk