



# Ryedale District Council

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**REPORT TO:** STANDARDS COMMITTEE

**DATE:** 22 NOVEMBER 2007

**REPORTING OFFICER:** Council Solicitor - Anthony Winship

**SUBJECT:** **REPORT BACK FROM THE SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

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## 1.0 PURPOSE OF REPORT

This report attaches notes made of the proceedings of the Annual Assembly of Standards Committees, held in Birmingham on 15/16 October 2007. The report is for discussion.

## 2.0 RECOMMENDATIONS

- 2.1 That the Committee consider and discuss the report and the issues raised.
- 2.2 That further reports be submitted to the Committee upon the publication of the final provisions of the new legislation and the draft regulations as soon as details are known.

## 3.0 BACKGROUND

The background to this conference was the forthcoming change from a system whereby all complaints about breach of the Members' Code of Conduct have to be made to the Standards Board for England (SBE) to a new system, from April 2008, whereby such complaints will be made directly to the Authority concerned.

#### **4.0 INTRODUCTION**

The Standards Board for England again organised the holding of an Annual Assembly for Standards Committees this October, the sixth such event, and this was attended for the Council by Councillor Mrs De Wend Fenton, Mr Colin Langley, an Independent Member of the Standards Committee and myself as Monitoring Officer. A copy of notes made at the Assembly is attached as Annex A to this report. Councillor Mrs De Wend Fenton and Mr Colin Langley may wish to add their own observations based on their perception of the Assembly. Full copies of the presentations and handouts are available on the Standards Board's website, the address details being given at the end of this report. The report sets out details of a wide range of talks and workshop sessions held at the Assembly.

In overall terms this was seen principally as a key turning point in the history of the Standards Board for England in that it is adapting itself to its new role as strategic regulator. However there was a lot of debate about in particular the future role of the Standards Board and of the practicalities of Standards Committees operating the local filter.

#### **5.0 REPORT**

Many of the sessions attended contained useful advice and guidance.

They included:-

- The Local Filter in Detail.
- Cracking the Revised Code
- An overview of findings from the Audit Commission arising out of their Ethical Governance Diagnostic Self-Assessment Surveys.
- Key Case Review

However, the main emphasis of the Assembly was upon the forthcoming legislative changes which are expected to require Standards Committees from April next year to be responsible for the local filtering of all complaints made against elected members at both district and parish level. With regard to this, the speech of the Deputy Chair, Patricia Hughes and the report of the session on "the local filter in detail" are of particular significance. Also of interest is the report of the session entitled "Managing the filter" which looked at the experiences of some of the authorities who have been involved in piloting joint arrangements.

Whilst some of the details are already known or can be confidently predicted, there are still considerable areas that remain to be covered in regulations. There is a concern that whilst consultation will begin as soon as the primary legislation has received royal assent, the final regulations may not be available until shortly before the new arrangements are due to start.

Particular concern was expressed that the regulations governing joint arrangements might not be given as much priority as those dealing with receipt of complaints and referrals. This could cause difficulty for those authorities who are planning to deal with one or more of the stages through joint arrangements with neighbouring authorities.

There was a general feeling that the legislation is likely to require authorities to increase the size of their Standards Committees and the number of independent and parish members. This is very much in line with the views expressed by the Committee when this issue was given preliminary consideration at previous meetings. Whilst further consideration can be given to this over the next few weeks once the legislation is finalised and the draft regulations and guidance start to emerge, it may not be possible to wait until the regulations are finalised before making recommendations to the Council upon this issue.

## **6.0 POLICY CONTEXT**

The issues discussed in the attached Appendix include several which relate to the corporate governance culture within local authorities generally and to sound ethical governance practice. There are no specific policy implications arising from this report as such but the Committee may of course wish to debate some of the issues raised at the Assembly.

## **7.0 FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report. However, concern was expressed during the Assembly at the resource implications of carrying out local investigations, particularly in complex cases.

## **8.0 RISK ASSESSMENT**

There is a need for regulations and guidance to be issued as soon as possible to assist the Committee in preparing to undertake local filtering from April 2008. If insufficient time is allowed to absorb the impact of the regulations before local filtering commences there is a risk of successful challenge on procedural grounds.

## 9.0 CONCLUSION

Against the recent background of the recent introduction of the revised Members Code of Conduct and the introduction of additional responsibilities for Standards Committee making decisions on the local filter, attendance at the Sixth Annual Assembly has been particularly helpful. A considerable amount of useful information has been received.

This Committee may wish, in view of this report and the views of Councillors Mrs De Wend Fenton and Mr Colin Langley, to consider what representation it thinks this authority should have at the next annual assembly on 13-14 October 2008.

### Background Papers:

Assembly agenda papers are available from the Standards Board website at:

<http://www.annualassembly.co.uk/Programme/Sessionmaterials>

### OFFICER CONTACT:

Please contact Anthony Winship, Council Solicitor, if you require any further information on the contents of this Report. The Officer can be contacted at Ryedale House, Telephone 01653 600666 ext. 267 or e-mail: <a href="mailto:anthony.winship@ryedale.gov.uk">anthony.winship@ryedale.gov.uk</a>
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## **6<sup>TH</sup> ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

### **“DOWN TO DETAIL – MAKING LOCAL REGULATION WORK”**

**DAY 1 – MONDAY 15 OCTOBER 2007**

#### **OPENING PLENARY – SIR ANTHONY HOLLAND**

The Assembly was opened by the Chair of the Standards Board for England, Sir Anthony Holland who announced his retirement as Chairman as from June 2008.

There was an acceptance that the original Members Code of Conduct had been too restrictive. For example the whistleblowing clause obliging Members to report breaches of the Code by other Members was not workable.

He referred to a crossroads having been reached, with the forthcoming introduction of the local filter. The Standards Board for England would adopt a guidance role.

Regulations would be needed by 1st April 2008 if local filtering was to begin then. History showed that frequently regulations were made too late. Resources would also be a serious issue.

#### **DEFINING THE DETAIL**

The Parliamentary Under-Secretary of State, Parmjit Dhanda MP highlighted how meeting the dual challenge of the local filter and the revised Code of Conduct depended on getting the details right. He referred to an unstoppable tide of devolution. Local democracy could not be revived without trust and a locally responsive conduct regime was part of this.

Reference was made to the Conduct of a small number of Councillors that has had a disproportionate effect on the reputation of local democracy which can discourage political participation.

Most people welcomed the devolved regime, which was referred to in last year's White Paper. The Bill before Parliament was in its final stages. There would be consultation on the details of the new regime over the next few months.

The revised Code was simpler, proportionate and reflected comments made. The Code would be reviewed again early next year.

About half of all cases were now referred to the local level, and the Board was adjusting to its new role as a light touch regulator.

Local Standards Committees would conduct initial assessments of all allegations. Monitoring Officers would investigate or deal with complaints in other ways, e.g. through mediation. In most cases the final determination would rest with Standards Committees, with only exceptional cases being referred up to the Board. One of the biggest risks was of lack of consistency to how the local filter operated.

Standards Committees might be able to work jointly with their neighbours and share resources.

A questioner referred to one Parish Council investigation which had cost £45,000. Mr. Dhanda stated that he would keep an eye on resources but flexibility was also important.

### **EVOLVING STANDARDS**

The Chief Executive of the Standards Board, David Prince stated that there was a generally positive view of local hearings. The Board would define what the framework should deliver and continue to work with other national bodies to share information and promote improvement locally. A copy of the Chief Executive's speech is attached at **Appendix A**.

### **LOCAL FILTER : COUNTDOWN TO 2008**

Patricia Hughes, the Deputy Chair of the Board spoke about the forthcoming local filter and the pilot projects. She said that local filtering was still on course for April 2008, but was dependent upon timely regulations. The Board had a fairly good idea what might be in the regulations and was preparing guidance accordingly.

Pilots had dealt with the local filter, joint working and monitoring and audit.

Thirty-eight Councils had piloted local filtering, reviewing a range of real allegations and deciding which to refer for investigation. The average referral rate was approximately six in ten, whereas the Standards Board for England might have referred only three.

Other key issues would include letting people know how to make complaints, the time taken to reach a decision (the Board's target for local filtering is presently ten days) and when to notify members of the complaint (probably from the outset).

As regards the decision on local filtering, the Board considered that in operating the local filter, there will be four separate issues to be considered:

- (a) Is the complaint actually about the conduct of a Member of the authority?  
If it is not, it does not fall within this process at all.

## ANNEX A

- (b) Does the complaint appear to be about something, which if true, would be a breach of the Code of Conduct? Again, if the complaint is about something which, even if it was true, would not be a breach of the code of conduct, then it can not be considered further under this process.
- (c) Has enough information been provided to form the basis for an investigation? Although complainants are not required to investigate and prove their own cases, there must be a baseline of information provided by complainants.
- (d) Does the complaint merit investigation? This is the most difficult of the four decisions. The Standards Board for England has developed guidance for itself on this, and has set a fairly high threshold before complaints are investigated. Essentially, this requires consideration of whether the matter merits the time and resources involved in an investigation (which average £3,000 to £5,000 per case, although this can be considerably more in some cases) or are there other appropriate ways of dealing with the matter? The Board will be issuing guidance.

The Committee would also have the power at the referral stage to direct the Monitoring Officer to arrange mediation or training.

If a complaint is deemed to require investigation, this might be done locally or by reference to an Ethical Standards Officer. The latter would expect to deal with very serious cases (that would attract disqualification if proven), very complex cases and cases where there is a substantial local conflict or would lead to severe disruption. Perhaps ten per cent of cases might be referred up to an ESO.

There will also be a review mechanism for complainants who wish to appeal against a decision not to investigate.

Any decision not to refer a case for investigation will be subject to a possible "appeal" by the complainant. The initial "local filter" decision will have to be taken by a panel of three Members from the Standards Committee; if the decision is not to investigate and the complainant requests a review, then the review will have to be undertaken by another panel of three different Members of the Standards Committee. The review decision looks at two issues:

- (a) Was the original decision flawed, i.e. unreasonable in law or failed to follow the correct procedures?
- (b) Has the complainant provided compelling new information in their review request, such that the original decision is no longer appropriate?

Reporting was expected to be based on a quarterly process, supported by an annual report that will also include information about what the Committee has been doing. This would include training and mediation for example. The Board will have the power to revoke the local filter but expects to exercise this only very rarely. The Board's role will primarily be support and guidance. This might include templates of letters to use and guidance on the role of joint committees.

Consideration should be given to potential conflicts of interest that might arise. These might be avoided if decisions on referrals and investigations were taken by small sub-committees rather than by the full committee, thereby among other things reducing the impact on the number of independent members required.

The Chief Executive of the Board added that the composition of committees would be addressed in guidance. The Board's advice to Government would be for as much flexibility as possible.

A copy of the Deputy Chair's speech is attached at **Appendix B**.

#### **MINI PLENARY – THE LOCAL FILTER IN DETAIL**

Delegates next attended a session on “**the local filter in detail**.” The session I attended was presented by John Williams, Monitoring Audit and Policy Manager for the Standards Board for England and Kirsty Cole, Strategic Director, (Corporate Services) of Newark and Sherwood District Council. The session covered what was already known about local filtering, some best guesses as to what was not yet known and some practical implications.

Complaints would be made in the first instance to the local Standards Committee.

The Committee would decide which of the following steps would be appropriate:

- (1) to refer allegations to the Monitoring Officer,
- (2) to refer allegations to the Standards Board,
- (3) to decide that no action should be taken.

Complainants could request a review if the Standards Committee decided to take no action. This must be within thirty days of notification of the decision. The Standards Committee must make a decision on such a request within three months.

If the Standards Committee decided to refer an allegation to the Standards Board for England, then the Board must either:



- (1) refer it to an ESO for investigation,
- (2) decide to take no action,
- (3) refer the matter back to the Standards Committee, which would then have to deal with it.

There would be a requirement for periodic returns to the Standards Board for England, and to comply with requests for information from the Board. The Chair of the Standards Committee must be an independent member. Two or more authorities might establish joint committees. A Standards Committee could refer a case to the President of the Adjudication Panel if the Committee considered that the sanctions available to it were insufficient.

Details of the new regulations are not yet known. Regulations are likely to cover:

- (a) Procedure on receipt of a complaint.
- (b) The time limit for local filtering (as opposed to a review).
- (c) Circumstances when a member should not be informed of the allegation. These might include, for example, allegations of bullying or intimidation.
- (d) The process for review of the referral decision.
- (e) An increase in sanctions available to the Standards Committee. It is thought that these might be relatively modest in nature, perhaps extending the current maximum sanction of three months suspension to six or nine months.
- (f) Circumstances where the Monitoring Officer can refer the case back to the Standards Committee. These might include where an investigation is not the most appropriate way forward and it would be preferable, e.g. to broker an apology or mediation but if this were unsuccessful, the Monitoring Officer could then take the case back.
- (g) Access of the public to meetings, publicity agendas, etc. There was a strong view that initial filtering and reviews should be conducted in private but this would need to be balanced by a need to show that the proceedings had been conducted fairly. For example, minutes might be anonymised.

Regulations would also cover the new obligations for reporting and monitoring and clarification of when two or more local authorities might establish a joint committee, together with the functions and composition of such a joint committee. These regulations would be less pressing.

As regards the framework for undertaking the local filter, Standards Committees would have three separate and distinct roles:

- (a) exercising the local filter;
- (b) review of local filter decision;
- (c) hearing following an investigation.

It was considered feasible for the same group to undertake functions (a) and (c) or (b) and (c), but not (a) and (b).

There was discussion as to safeguards to avoid conflict. Kirsty Cole suggested a separate sub-committee for each stage of the process. Alternatively, a joint committee structure might be used at one or more of the stages if this were politically acceptable. Kirsty suggested that sub-committees might each contain five members. This would give a total Standards Committee of fifteen. Current requirements were for twenty-five per cent of Standards Committee members at least to be independent and for at least one parish councillor to be present when a parish matter was considered. This would suggest a need for a minimum of three parish members and for more independent members. It would be a legislative requirement for the Chairman of the Standards Committee itself to be an independent member but it is not yet clear whether referral sub-committees should be chaired by independent members.

The procedure for lodging a complaint was considered. This included whether there should be a standardised complaint form. Probably all complaints should be referred to the Committee so there would be a formal record of how they have been dealt with, even if no breach of the Code was indicated.

Further issues to consider are:

- whether there should be a pre-meeting with the Chair,
- whether a summary of the complaints should be prepared,
- whether complaints should be cross-referenced against the Code,
- whether there should be recommendations, and
- whether additional information or paperwork should be sought from the complainant.

The view was expressed that the filtering role was not an investigation role and there was no obligation on the Committee to seek further information. If the information presented was insufficient then there should be no action.

There was a risk of different committees applying different local criteria, leading to inconsistency across the country. At present there were national standards operated by the Board. Guidance from the Board should be made available.

A possible flow chart of a possible procedure for handling complaints is attached at **Appendix C**.

The frequency of meetings would depend on the volume of complaints. There was speculation as to whether regulations might permit the press and public to be excluded or even whether meetings might be permitted through web/video links or telephone conferences. There would need to be some formal record of the meeting. Relevant parties would need to be notified of the decision together with reasons for it.

Requests for review could be based either upon the original decision being flawed because it was unreasonable in law or correct procedures had not been followed, or because the complainant had provided compelling new information in their review request.

Practical implications would include addressing training needs of the Standards Committee and Monitoring Officer, the potential for more local investigations and publicity to ensure the public was aware of where to lodge the complaint after 1 April 2008.

### **BREAK OUT SESSION – CRACKING THE REVISED CODE**

This session entitled Cracking the revised Code, was presented by Mark Jones, Principal Legal Advisor for the Standards Board for England and Nicky Verginis Policy Adviser for the SBE. The presentation gave an overview of the revised Code of Conduct, using practical case examples to bring delegates up-to-date with all of the major changes and how they work in practice.

The presentation from this session can be found at the following site: <http://www.annualassembly.co.uk/Programme/Sessionmaterials/file> download

The speakers identified and outlined the five key changes in the revised Members Code of Conduct as follows:-

- complying with equality laws
- no bullying
- confidential information
- disrepute and private capacity
- rules about declaring personal and prejudicial interests

### **COMPLYING WITH EQUALITY LAWS**

In relation to the obligation to comply with equality laws it was stated that the provision was not intended to stifle political debate and it is expected the provision will not prevent Members from expressing trenchant opinions.

## **NO BULLYING**

Bullying was said to be an ill defined concept. It was for the Standards Committee to decide if bullying had taken place having regard to relevant guidance on the concept. In reaching a decision on whether or not bullying had taken place the Standards Committee may have regard to the following principles:-

Was the Member conduct:-

- Offensive, intimidating, insulting or humiliating behaviour
- One-off or part of a pattern
- Based on abuse or misuse of power or authority
- Attempts to undermine an individual or a group

It was pointed out that legitimate challenges of policy or performance are not likely to be prohibited by this provision.

One important stakeholder pointed out during the question and answer session that it was not for the Standards Board for England to define the concept of bullying. Standards Committees should use the advice from the Standards Board for England as a guide but should not slavishly follow it. In terms of considering whether or not there has been bullying in a particular case the Standards Committee has a broad canvas to paint on.

## **CONFIDENTIAL INFORMATION**

The clear guidance here was that Members should only disclose confidential information if:

- they have consent or required by law (no change)
- the disclosure is made to a third party to obtain professional advice
- the disclosure is reasonable – in the public interest – made in good faith – does not breach any reasonable requirements of the authority

## **DISREPUTE AND PRIVATE CAPACITY**

Now:

- the Code only applies to Members acting in their official capacity
- requires link with functions of the office

After the Bill:

- the Code also covers criminal conduct that has led to a conviction (no cautions or other unlawful conduct short of conviction)

## **RULES ABOUT DECLARING PERSONAL AND PREJUDICIAL INTERESTS**

The presenters made it clear that there are now four new questions to consider for prejudicial interests.

These are:

- Is it a personal interest?
- Does one of the new exemptions in para 10(2)(c) apply?
- Is it about a financial or regulatory issue?
- Would an informed member of the public think it was so significant as to affect your judgment of the public interest?

In conclusion the presenters indicated that there was a real opportunity for the Standards Committee to set the standard of ethical conduct in the area. Ethical standards may not necessarily be consistent nationally.

## **BREAK OUT SESSION – MANAGING THE FILTER**

A session entitled “Managing the Filter” was presented by Anne Rehill, Advice and Guidance Manager at the Standards Board for England, Joy Bowes, Head of Legal and Democratic Services at St. Edmondsbury Borough Council and Mark Heath, Solicitor to the Council at Southampton City Council.

This session shared insights into working with joint arrangements, gained from the two local authority speakers having taken part in pilots with their local authorities. Their experience revealed the diverse ways authorities could use joint arrangements to take on the local filter, and proved that there was no “one size fits all” solution.

Seven groups of authorities had looked at possible options for joint working. Four models were considered, ranging from informal joint working to a joint committee with full powers. These are shown at **Appendix D**. The timing of regulations was critical as the Board could not write guidance until the regulations were available.

In Suffolk, Standards Committees varied in size between six and eleven members. The problems the pilot looked to address were those of increased workload, separation of the three roles of filtering, review and hearing, and the need for more meetings. It was clear that smaller Standards Committees might struggle but not necessarily that a joint committee was the best option. If not, reciprocal arrangements might be helpful, such as referring reviews to neighbouring authorities.

The view of members was that functions should be discharged locally wherever possible, but partners could be used for overspill. They preferred face to face meetings rather than “virtual” meetings. The emphasis was upon flexibility and choice in order to make the arrangements work.

In Hampshire, the purpose of the pilot was to test joint working by using electronic means of communication and “virtual” committees. There would be a Duty Monitoring Officer, rotated on a monthly basis. Each local Monitoring Officer would refer cases to the Duty Monitoring Officer. He or she would then refer the case to three members from outside the authority concerned. If there were an appeal, that would be referred to three different members. All referrals, queries and replies were dealt with electronically unless members wished physically to meet to discuss the issue. Committee members would copy all their emails to the other committee members as well as the referring Duty Monitoring Officer.

Views of participants were variable. There were some IT problems, with participants using different platforms. The system did not allow face to face interaction or debate, but it did focus minds on the issue. The initial Monitoring Officer briefing note was considered to be beneficial in concentrating upon key points and most cases were turned round within seven days.

The extent to which these procedures can be used will be dependent upon what is contained within the regulations. Mark’s view was that the option should be allowed to exist and could be made to work, although it would not suit everyone.

Overall, the session showed that pooling resources amongst Standards Committees is one way of meeting the challenges ahead and that it is beneficial to have a joint working culture in place.

## **DAY 2 TUESDAY 16 OCTOBER 2007**

### **BREAK OUT SESSION – KEY CASE REVIEW**

Another session at the conference looked at the lessons to be learned from a number of key cases and was presented by Sara Goodwin, Head of Legal at the Standards Board for England and Hazel Salisbury, Director of Casework, at the Standards Board for England.

This session looked at the following four cases :

- (i) Livingstone v the Adjudication Panel for England  
High Court Judgement 19 October 2006
- (ii) Councillor Hudson - Great Yarmouth Borough Council  
APE 0377 12 July 2007;
- (iii) Councillor Woodrow -London Borough of Camden  
APE 0352 20 December 2006
- (iv) Harrogate Borough Council  
No further action 26 July 2007

**(i) Livingstone v the Adjudication Panel for England**

The Livingstone case demonstrated that conduct in a private capacity can only come within the Code if there is a direct link with the Member's public office. For example, using information obtained as a Member to take action in one's private life. After the new Bill becomes law, the Code of Conduct will apply to private behaviour which results in a criminal conviction but only if it involves the issues of disrepute, misusing one's position, or intimidation.

**(ii) Councillor Hudson - Great Yarmouth Borough Council**

APE 0377 12 July 2007;

In this case the Councillor concerned had made a series of serious allegations about the conduct of Planning Officers .

The Adjudication Panel found that the Councillor had impugned the integrity and reputation of council officers and others in a most improper way. The Adjudication Panel was also extremely concerned about the Councillor's subsequent attitude in relation to the matters before the Tribunal.

The Respondent was disqualified for 18 months from being or becoming a member of the relevant authority or any other relevant authority as from the date of the hearing.

**(iii) Councillor Woodrow -London Borough of Camden**

APE 0352 20 December 2006

Councillor Woodrow was the Chair of the Development Control Sub-Committee .

The Council had received planning applications for the proposed Kings Cross Central development . English Heritage was a statutory consultee on the Kings Cross Central planning application. Councillor Woodrow telephoned the case Officer at English Heritage on two occasions during the period from June 2004 to August 2004 to discuss the proposed Kings Cross Central development.

It was in the Tribunal's judgment improper for the Chair of a Development Control Sub-Committee to contact a statutory consultee and, in particular, one which has the power to withhold authority to grant planning permission for elements of the relevant scheme and whose view is thus crucial, with a view to lobbying that statutory consultee or any of its officers to share a disposition against the form and substance of the planning application.

Members can approach consultees to ask questions etc, but not to seek to influence them to respond to the consultation in a particular way.

The beach was at the law end of seriousness and the Case Tribunal imposed no sanction.

**(iv) Harrogate Borough Council**

This matter concerned a planning application made by a Councillor for a permanent dwelling in the open countryside to replace a caravan.

The case is of particular interest since it was the subject of an investigation by both the Local Government Ombudsman and the Standards Board for England which reached two different conclusions .

The Local Government Ombudsman issued a report in December 2006 making a finding of maladministration causing injustice. A copy of that report is attached as **Appendix E**.

The Ombudsman found that a Harrogate Councillor, who should have declared an interest and left a meeting, instead stayed and used his casting vote to give a fellow Councillor and friend outline planning permission in breach of six material planning policies. Other Councillors from the same political party at Harrogate Borough Council voted for the application despite strong recommendations from Council officers that it should be refused. The Councillors could give no valid planning reasons for their decisions. The Local Government Ombudsman took the unusual step of naming the Councillors involved.

The outcome in relation to a complaint made to the Standards Board of England was that the ethical standards officer found that, in the circumstances of the case, no action needed to be taken.

The Ethical Standards Officer found that one Councillor stated that he often gave the applicant a lift to council meetings as her house was on the way there, but he did not believe this made them friends. The Councillor stated that the journey took about 15 minutes, during which they would make polite small talk. They meet on occasions at political, church and large-scale social functions, but no particular friendship existed between them.

The Ethical Standards Officer did not consider that the personal interest stemmed from the applicant being a fellow councilor, as the application was not related to the political group of which they were both members and was submitted in the applicant's private capacity. The nature of the social contact between them was not enough to constitute a friendship under the Code of Conduct.



It should be noted that the revised Code of Conduct refers to “close associate” instead of “friend”.

Harrogate Borough Council has subsequently taken steps to improve its procedures.

### **BREAK OUT SESSION MONITORING OFFICER OPEN HOUSE Q & A**

This session was chaired by Rick Owens, Investigator for the Standards Board for England and the speakers were Paul Hoey, Head of Policy and Guidance for the Standards Board for England and Mark Jones, the Principal Legal Advisor for the Standards Board for England.

This session was of interest for a number of reasons including clarification on the following points:-

- (i) in terms of the meaning of “close associate”, a Member being on the same Committee does not necessarily give rise to being a close associate. Other factors which may be relevant includes Members always being sat together and/or always voting in the same way.
- (ii) in relation to Standards Committees operating a filter mechanism, the opinion was expressed that Standards Committees may need to consider adopting a referrals policy to give some clarity and give guidance on what types of cases the Standards Committee will wish to see investigated and the types of cases the Standards Committee would not normally consider worth investigating. Such guidance would be taken into account in making a decision but would not prejudice the consideration of each complaint on its merits. One important justification for a policy is that each case can cost between £3000-5000 to investigate.

### **PLENARY SESSION – “WHAT'S THE SCORE?”**

A plenary session entitled “What’s the Score?” was an open discussion on the current ethical framework.

Dawn Hands, Research Director and Board Director at BMG Research revealed that many of those forming the bedrock of the new framework were aware of the changes lying ahead. Nearly all Monitoring Officers (99%) and the majority of Standards Committee members (90%) said that they knew of the changes. However, concerns were raised over the level of awareness among town and parish authorities with 30% not aware. Similarly, less than half of town and parish authorities felt that their Monitoring Officers were ready for the transition.

Alison Kelly, Strategy Adviser for Governance and Accountability at the Audit Commission said that findings from the Ethical Governance Diagnostic Self-Assessment surveys showed a general picture of readiness and that authorities were actively encouraging high standards. However, the responses suggested that many required a greater awareness of the roles and responsibilities of Standards Committees and that the importance of the ethical framework needed to be communicated more widely, bringing a culture of high standards into the mainstream. A summary of the findings from the surveys is attached at **Appendix E**.

Jessica Crowe, Executive Director of the Centre for Public Scrutiny compared the work of Scrutiny and Standards Committees. She highlighted the importance of leadership amongst Standards Committees and pointed out the value of having independent members working alongside elected members. She stressed the importance of taking transparent decisions, reflecting one of the principles in the CIPFA/SOLACE Good Governance Framework and having an open culture which supports this.

There was a general feeling that culture and leadership were areas for further focus.

A session entitled "Message Received? Managing Communications" was presented by Edward Welsh, Programme Director, Media and Campaigns at the Local Government Association and Tim Bogan, head of Communications for the Standards Board for England.

The message was that if media interest in an issue is not confronted, it will get out of control. Close liaison between the Monitoring Officer and the Head of Communications was important.

A member should not learn from the local press that a complaint about him or her had been received. Advice was neither to confirm nor deny that a complaint had been made until it had been decided whether the complaint should be investigated. At that stage the receipt of a complaint could be confirmed to the press although investigations should not proactively be announced.

Information given should be confined to the name of the Councillor, whether or not the matter is being investigated, if not why not (using the reasons given to the complainant) and which parts of the Code are in issue.

During an investigation confirmation can be given that it is under way. However, the authority should not commit to saying when it will finish nor say the stage that the investigation is at.

At final report stage the authority can state that the investigation is over. However, the report should not be disclosed prematurely. If it is disclosed, the Council should not comment upon it.

## ANNEX A

After the hearing a press release can be made if there is good reason to do so. It would be helpful to prepare a case summary jointly between the investigator and the press office, as the Standards Board for England presently does. This should ideally be less than five hundred words and simple to understand, in non legal terminology.

Councils might consider a press release at the time that local filtering begins, stating that as from April or whatever the agreed date, local Standards Committees will be considering complaints that members have broken the Code and forewarning the media that the Council will not be confirming or denying that a complaint has been made until a decision whether to investigate it has been made.