

C. POLLITTE

Date: 22 June 2010
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Our Reference: CEH/StandardsCom



To: Members of the Standards Committee
(Cllr P Bowden, Mr E Butt, Cllr G P Chamberlain, Mr R Davison,
Cllr G K Liverton, Cllr Mrs A E Liverton, Cllr S Pollentine,
Cllr C Richards, Ms A Willan)

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Dear Sir/Madam

**Standards Committee
Tuesday 6 July 2010 at 10.00 am**

The above meeting will be held in the Council Chamber at East Devon District Council Offices, Knowle, Sidmouth, to consider the matters detailed on the agenda below.

Yours faithfully,

MARK WILLIAMS

Chief Executive

Members of the public are welcome to attend this meeting.

- A period of 15 minutes has been provided at the beginning of the meeting to allow members of the public to raise questions.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman of the Committee will ask if any member of the public would like to speak in respect of the matter and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- The public is advised that the Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

AGENDA

Part A

Page/s

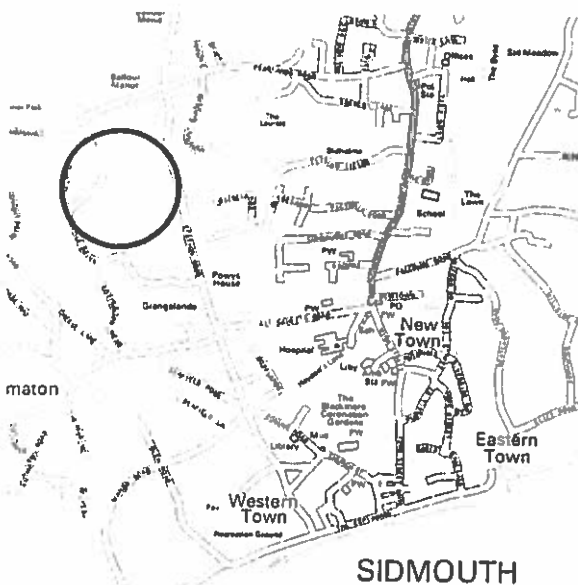
- | | | | |
|---|--|--------------------|---------|
| 1 | <p>Public question time – standard agenda item (15 minutes)</p> <p>Members of the public are invited to put questions to the Committee through the Chairman.</p> <p>Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public.</p> | | |
| 2 | To receive any apologies for absence. | | |
| 3 | To confirm the minutes of the meeting held on 16 March 2010. | | 4 - 7 |
| 4 | To receive any declarations of interests relating to items on the agenda. | | |
| 5 | To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which Officers recommend should be dealt with in this way. | | |
| 6 | To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be identified in the minutes. If you wish to raise a matter under this item, please do so in advance of the meeting by notifying the Chief Executive who will then consult with the Chairman). | | |
| 7 | <p>Update on progress of the Standards Committee Working Group</p> <p>The Working Group's recommendations from March 2010 for Members to consider</p> | Monitoring Officer | 8 |
| 8 | <p>Update on April – June 2010</p> <p>Standards complaints at EDDC for Members to consider</p> | Monitoring Officer | 9 - 10 |
| 9 | <p>Latest news on the Standards Framework</p> <p>A letter from the Chair of Standards for England, a newspaper article and review document from Standards for England are attached for debate.</p> <p>Article:</p> <p>The new framework is working</p> <p>Document:</p> <p>A review of the local standards framework March 2010
 http://www.standardsforengland.gov.uk/Aboutus/Corporateinformation/CorporatePublications/ReviewoftheFramework2010.pdf</p> <p>For information (links only):</p> <p>A Guide to Standards for England (March 2010)
 http://www.standardsforengland.gov.uk/media/GuideToInvestigations.pdf</p> <p>Local investigations and other action (March 2010)
 http://www.standardsforengland.gov.uk/Guidance/TheLocalStandardsFramework/LocalInvestigations%2011-03-10.pdf</p> <p>Standards committee determinations (June 2010)
 http://www.standardsforengland.gov.uk/Guidance/TheLocalStandardsFramework/StandardsCommitteeDeterminations%2011-03-10.pdf</p> | Monitoring Officer | 11 |
| | | | 12 |
| | | | 13 - 49 |

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10	The Local Government Ombudsman's Annual Review for year ended 31 March 2009	Bob Darbourne, Communications and Improvement Manager	50 – 59
11	Update - 2010 Annual Assembly of Standards Committee 18/19 October 2010, Birmingham	Monitoring Officer	60
12	Forward Plan	Monitoring Officer	61
13	Date of Next meeting: Tuesday 2 November 2010 at 10.00 am		

Members remember!

- You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- Make sure you say the reason for your interest as this has to be included in the minutes.
- If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



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From Exmouth, Budleigh, Otterton and Newton Poppleford – 157

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

From Exeter – 52A, 52B

From Honiton – 52B

From Seaton – 52A

From Ottery St Mary – 379, 387

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Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users. The doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time. A hearing loop system will be in operation in the Council Chamber.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Standards Committee held at Knowle, Sidmouth on 16 March 2010

Present:	Mr E Butt	Independent Chairman
	Cllr P Bowden	EDDC Councillor
	Cllr G P Chamberlain	EDDC Councillor
	Mr R Davison	Independent member
	Cllr Mrs A E Liverton	EDDC Councillor
	Cllr S P Pollentine	Parish representative
	Cllr C Richards	Parish representative
	Ms A Willan	Independent member
Officers:	Denise Lyon	Monitoring Officer
	Diana Vernon	Democratic Services Manager
Apology:	Cllr G K Liverton	Chairman, EDDC Council

The meeting started at 9.30 am and ended at 11.30 am

*11 Minutes

The minutes of the meeting of the Standards Committee held on 3 November 2009 were confirmed and signed as a true record.

The Chairman confirmed that he had up-dated the Council at its meeting in December on the work of the Standards Committee. He advised the Council that a large number of complaints in respect of district, parish and town councillors had been in respect of planning issues. He had stressed the importance of learning from these cases. Complaints had concerned the basic issues of transparency in decision-making, committee members apparent lack of respect for speakers and failure to declare prejudicial interests. In many cases, Members pleaded ignorance of any wrongdoing; this was not an acceptable excuse. He said that district and local councillors needed to be fully aware of the Code of Conduct and remind themselves of the rules and guidance on declarations of interest. It was vital that the public had confidence in the system and councillors and that the Council should strive to achieve this.

The report had been issued as a press release but had not been printed by the media. The Chairman suggested that he may write to the letters' page to highlight the work of the Standards Committee.

RESOLVED that a copy of the Chairman's speech to Council together with a copy of EDDC's Guide to Development Management and Planning Inspections, when finalised, be forwarded to Standards Committee Members for information.

*12 Resignation

The Chairman advised that Councillor Mrs Tomkins (Parish/Town representative) had resigned from the Committee and that interviews were due to take place to fill this vacancy.

***13 2009/10 Annual report to the Standards Committee**

Members considered the report of the Monitoring Officer which up-dated Members on her duties and role for the financial year relevant to the Standards Committee. She advised that the Assessment and Hearings Sub-Committee had met five times to consider 25 allegations of misconduct and once to consider a request for dispensation. The Review Sub-Committee had met once to carry out a review. The details of the meetings and complaint case outcomes were included within the report. Members were reminded of relevant new legislation, guidance and rules and training undertaken.

Members found the report very helpful and informative. It was suggested that it should be made clear that the Standards Committee dealt with Councillor behaviour and not that of Officers. However, Officers not declaring a relevant interest would be subject to the Code of Conduct.

It was suggested that local council/councillors should be made more aware of when they could apply for a dispensation to speak and/or vote on matters on which they had an interest.

Concern was raised that the Council's practice of receiving Village Design Statements and Parish Plans led local communities to believe that these carried over-riding weight when planning applications were being considered. Local groups did not always appreciate the planning reasons for a determination, if it ran contrary to their Statements/Plans. It was suggested that the Council, in receiving such Statements/Plans from local communities, should emphasise that these would be regarded as a reflection of local opinion and used as supplementary papers, which, nonetheless, would be overridden where there were good planning reasons to do so.

Members believed that the standard of public behaviour sometimes made meetings difficult. It was suggested that the behaviour of Councillors, and significantly of the Chairman, would have some influence on the way the public behaved. There was an unfortunate assumption that a Chairman seeking legal advice during the meeting implied that he was not listening to the speaker. The Committee thought that it could be helpful, where there were significant numbers of the public present, or where an item was particularly contentious, for the Chairman to explain at the start of the meeting that legal advice might need to be sought.

It was also suggested that where an Officer was presenting a report to the Development Management Committee that he could summarise public response and how that had been taken into account during the collation of the report.

The Monitoring Officer was thanked for the valued report.

- RESOLVED**
- (1) that the Council be recommended to consider and note the Monitoring Officer's Annual Report for 2009/10
 - (2) that local councils/councillors be made more aware of when they can apply for a dispensation to speak and/or vote on matters on which they have an interest by including this information on the Parish/Town Council page on EDDC's web site and raise as an issue at the next parish and town councils annual meeting,
 - (3) that the Development Management Committee make it clear, when receiving Village Design Statements and Parish Plans, that these would be taken into account when relevant planning applications were being considered but that applications would be determined on their individual merit and with good planning reasons.

*14 **Standards Working Group**

Members considered the report and recommendations of the Standards Working Group which had met on 1 December 2009. The Group had been set up at the last meeting of the Committee as a means of examining various ways of enhancing awareness and the profile of the Committee amongst the public and all Councillors. Ray Davidson who had prepared the report introduced the recommendations by confirming that the Working Group had met informally and voluntarily. The Group had used the minutes of the previous meeting of the Standards Committee (3 November 2010) and feedback from the Standards for England Conference as its starting point. The report had been produced consensually following detailed discussion and each recommendation was discussed by the Committee.

1. Standards Committee meetings to be held quarterly.

The Committee agreed that when there was sufficient business, it would meet quarterly. Proposed dates were 6 July and 2 November (2010), 25 January and 15 March (2011). The idea of including some training in one of the meetings was supported.

2. Take steps to enhance Councillor awareness of the work of the Committee

The minutes of the Standards Committee were reported to Council and the Chairman presented a report to Council each year. An article was now included quarterly in the Council's weekly newsletter, the Knowledge. It was suggested that a representative from the Council's ICT team and from the Policy and Communications Team could be invited to a future meeting to look at further ways to raise Councillor and public awareness. This could include making more use of parish magazines and ensuring that appropriate contact details and relevant information on the work of the Standards Committee was included in appropriate Council publications and leaflets. It was also suggested that articles could be provided to local councils for inclusion in their parish annual reports.

3. Designated, autonomous section of the EDDC Website

This was supported by the Committee as a way of enhancing general awareness of the work of the Standards Committee, its purpose and procedures.

4. Leaflet for distribution to electorate

The Committee questioned the cost effectiveness of this suggestion but felt that relevant information should be included in appropriate EDDC leaflets when they were due to be re-printed.

5. Standards Committee report to local Councils

The Committee thought that it would be helpful as a means of facilitating, improving and strengthening liaison with local councils, that a letter be sent to clerks defining the purpose of the Committee and emphasising the importance of the register and declarations of interest with the clerks being asked to forward this to all of their councillors for information. It was also suggested that the Communications Team include the editors of parish magazines on their distribution list for press releases.

The Committee also supported the recommendation of extending a suggestion to local councils that they could invite a member of the Standards Committee to attend one of their council meetings to explain the work of the Committee.

6. Improved information flows between the Council and Committee

The Committee was encouraged to keep up to date through the information in the Knowledge.

***14 Standards Working Group (cont)..**

- RESOLVED**
- (1) that the Standards Committee meeting quarterly, subject to there being sufficient business, with consideration being given to including relevant training opportunities,
 - (2) that representatives from the Council's ICT team and from the Policy and Communications Team be invited to a future meeting of the Committee to look at possible further ways to raise Councillor and public awareness of the standards work being undertaken,
 - (3) that a designated, autonomous Standards Committee page (with clickable links for easy access) be included on the Council's website,
 - (4) that information on the work of the Standards Committee be included in relevant Council publications and leaflets when these are due for re-print,
 - (5) that a letter be sent to clerks defining the purpose of the Committee and emphasising the importance of the register of interests and declarations of interest, with the clerks being asked to forward this to all of their councillors for information and also suggesting that this information could be included in their annual report,
 - (6) that a suggestion be made to local councils that they could invite a member of the Standards Committee to attend one of their council meetings to explain the work of the Committee,
 - (7) that the Communications Team include the editors of parish magazines on their distribution list for press releases,

***15 Code of Conduct Training Session for Parish and Town Councils.**

The Monitoring Officer advised that arrangements were now in place for a Parish and Town Councils' Code of Conduct Training session on 27 April 2010. This was in response to a request from a number of local councils. The session would be introduced by Ted Butt to set the scene for the session, outlining the work of the Standards Committee, its importance and the issues that were being dealt with through Hearings. The morning session to be led by the Monitoring Officer and Head of Legal, Licensing and Democratic Services would be about where to find information, Code of Conduct, discussion and questions. An hour session after the lunch break would be specifically for parish and town clerks in respect of issues, discussion and self-help. Clerks of the Quality Parishes had been asked to help with this part of the day to share best practice.

- RESOLVED**
- (1) that details of the Code of Conduct Training Session be sent to members of the Standards Committee, who it was hoped would be available to attend,
 - (2) that all Councillor be advised of the planned Training Session and asked to encourage the local councils in their wards to take advantage of the opportunity.

***16 Standards Committee membership**

The Monitoring Officer advised that the Committee's Independent Chairman, Ted Butt and Parish Council representative, Simon Pollentine, were coming to the end of their second 3-year term of office. This Council currently appointed for an initial 3-year term with the option for a second term if all parties were in agreement. Guidance now issued from the Standards Board indicated that Councils could appoint independent/parish council representatives for two 4-year terms.

The Chairman and Councillor Pollentine advised that they would be willing for their terms of office to be extended. The Committee asked the Monitoring Officer to progress this arrangement, which would require Council approval.

RESOLVED that the Monitoring Officer ask the Head of Legal, Licensing and Democratic Services to draft an amendment to the Council's Constitution, in line with Standards Board guidance, to extend the length of service of Independent and Local Parish representatives on the Standards Committee to two 4-year terms.

(The amendment to be referred to the annual meeting of the Council for approval).

(The Independent and Parish Council representatives on the Board (Ted Butt, Ray Davison, Alison Willan and Councillors Pollentine and Richards) declared a personal interest in this item as the decision affected the terms of their appointments.

***17 Date of next meeting**

Members noted that the next meeting of the Standards Committee was scheduled for Tuesday 6 July 2010 at 10am.

Chairman Date

Update on Action agreed on Working Party recommendations

	Action	Action taken
1.	that the Standards Committee meet quarterly, subject to there being sufficient business, with consideration being given to including relevant training opportunities,	Actioned: 4 meetings are now timetabled: 6 July 2010 2 November 2010 25 January 2011 15 March 2011
2.	that representatives from the Council's ICT team and from the Policy and Communications Team be invited to a future meeting of the Committee to look at possible further ways to raise Councillor and public awareness of the standards work being undertaken,	Actioned: Chris Powell and Karen Jenkins have been invited to 2 November meeting
3.	that a designated, autonomous Standards Committee page (with clickable links for easy access) be included on the Council's website, The webpage is: www.eastdevon.gov.uk/index/your_council/councillors_and_meetings/standards_committee_agenda_mins_remit.htm	Actioned: Webpage set up
4.	that information on the work of the Standards Committee be included in relevant Council publications and leaflets when these are due for re-print,	Ongoing. Print room to advise on any re-prints.
5.	that a letter be sent to clerks defining the purpose of the Committee and emphasising the importance of the register of interests and declarations of interest, with the clerks being asked to forward this to all of their councillors for information and also suggesting that this information could be included in their annual report,	Actioned: Letter sent to Town and Parish clerks 21 June 2010
6.	that a suggestion be made to local councils that they could invite a member of the Standards Committee to attend one of their council meetings to explain the work of the Committee,	Actioned: Included in the 21 June letter
7.	that the Communications Team include the editors of parish magazines on their distribution list for press releases,	Actioned: A distribution list is maintained on the Council email system.

Table of complaints received since March committee

Date rec'd & from	Town/Parish or EDDC member	Allegation	Assessment and Hearings Sub Committee - decision
04/11/09 Member of the public LSB18	EDDC member	Alleged breach of Code, para 3(2)(d) by not acting in an impartial manner while acting in their capacity when chairing a committee.	Referred to Assessment Sub-Committee 24/11/2009. Potential breach: Para 3(2)(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority. No further action - insufficient evidence, no breach of the code. Review requested 30/12/09 (no date set yet)
12/11/09 Member of the public LSB19	EDDC	Alleged breach of Code, para 3(2)(d) by not acting in an impartial manner while acting in their capacity when chairing a committee.	Referred to Assessment Sub-Committee 24/11/2009. Potential breach: Para 3(2)(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority. No further action - insufficient evidence, no breach of the code. Review requested 15/12/09 (no date set yet)
10/11/09 Member of the public LSB20	Parish Councillor	Alleged breach of Code: bringing his office into disrepute, not declaring a personal and prejudicial interest and not withdrawing from the meeting while acting in his official capacity as Chairman of the parish council.	Referred to Sub-Committee 24/11/09: Para 5 bringing office into disrepute, Para 10 disclosure of prejudicial interests Para 12 Effect of prejudicial interest on participation Para 9 disclosure of personal interests Referred to Monitoring Officer /Senior Solicitor for investigation As at 02/03/10 Monitoring Officer has agreed to defer this investigation due to a pending Land Registry Adjudication Hearing in March and a County Court action against the Cllr. It has been agreed that bringing the investigation to a conclusion now might prejudice either of these proceedings.
23/03/10 Town Cllr LSB21	Town Councillor	Alleged breach of code: Para 5 - by bringing their office or authority into disrepute. Para 3(1), treating others with respect, Para 6(a) by attempting to use their position improperly at a meeting of the Town Council on 15 March 2010.	No further action. Sub Committee asked MO to write to Cllr on their behalf to say that although no breach, they did feel their comments, although falling short of personal abuse, were insensitive and inappropriate.
26/03/10 Parish residents LSB22	Parish Councillor	Alleged breach of code: Para 5 - by bringing his office or authority into disrepute. Para 3(1), treating others with respect, Para 6(a) by attempting to use his position improperly at a meeting of Seaton Town Council on 15 March 2010.	No further action. Sub Committee agreed that Chairman should attend next parish meeting to talk to the councillors about the issue and code of conduct. Review requested 7 May 2010.
26/03/10 Parish residents LSB23	Parish Councillor	Alleged breach of code: Para 5 - by bringing his office or authority into disrepute. Para 6(a) by attempting to use his position improperly at a meeting of Seaton Town Council on 15 March 2010.	No further action. Sub Committee agreed that Chairman should attend next parish meeting to talk to the councillors about the issue and code of conduct. Review requested 7 May 2010.

26/03/10 Parish residents LSB24	Parish Councillor	Alleged breach of code: Para 5 - by bringing his office or authority into disrepute.	No further action. Sub Committee agreed that Chairman should attend next parish meeting to talk to the councillors about the issue and code of conduct. Review requested 7 May 2010.
13/05/10 Town resident LSB25	Town Councillor	Alleged breach of code: Para 5 - by bringing her office or authority into disrepute.	



Sent via email

1 June 2010

Dear Colleague

As you will no doubt be aware the Government announced in the recent Queen's Speech that the proposed Decentralisation and Localism bill will include proposals to 'abolish the Standards Board regime'. Beyond this statement, we do not currently have clear details of the scope or implications of this proposal. However, until such time as the relevant legislation is passed, the statutory framework remains operative.

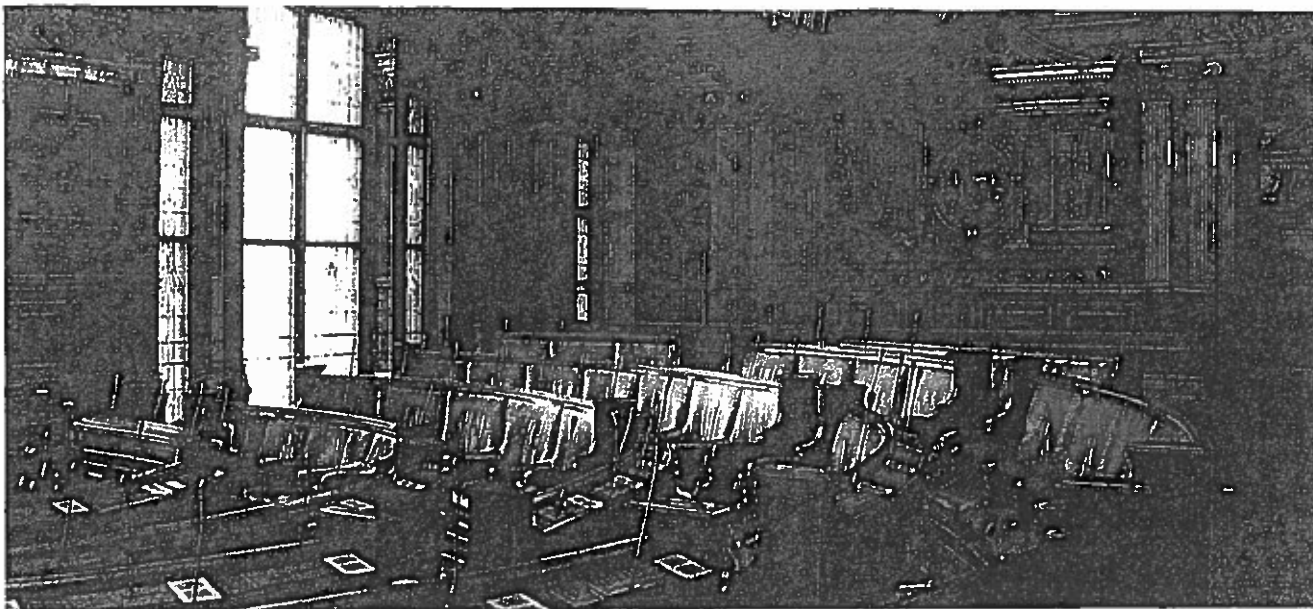
We will therefore continue to work with you to support your work. In turn, we expect you to continue with your statutory duties including the assessment of allegations, and we will continue to consider cases which you refer to us.

We remain committed to ensuring that there is a proper framework of local accountability in which the public can have confidence and we wish to work with central and local government to develop any proposals. As more details emerge we will keep you informed of developments and would be interested in hearing your views about how future arrangements could most effectively work.

In the meantime, if you need clarity on any specific issues, please do continue to call our enquiries line.

Yours sincerely

Dr Robert Chilton
Chair



Mob
LH
D. T. R.
D.

The new framework is working

The local standards framework generates strong opinions. It could hardly be otherwise – it is a tool devised by national politicians to regulate local politicians as they go about their political business. Challenging territory for a regulator.

The current arrangements, whereby local standards committees are responsible for promoting high standards and handling complaints in their authority, 'went live' in May 2008.

Last autumn, 18 months on, we announced a review. We were aware of some criticisms – and some misconceptions – and plenty of good work at a local level. We had evidence based on our work with authorities, their monitoring returns, learning from cases and from research.

We wanted to pull all that together alongside a structured conversation with all involved.

We wanted to know whether the local standards framework was succeeding as planned, or if there were unintended consequences. Is the framework proportionate across factors such as cost, effort, transparency, timeliness, fairness and sanction or remedy?

What is the impact of the local framework on member behaviour, on confidence that poor behaviour will be addressed and on public trust in politicians?

Which aspects of the framework work well and which don't? What are the alternatives?

In her article, 'Is the standards framework a force for good or a waste of money' (The M, 4 February), Kirsty Cole honed in on some issues from a monitoring officer viewpoint. Important, certainly, but we needed a wider perspective.

We've heard from the public, who make the majority of complaints, and from politicians, who are subjected to them. We've talked to standards committee chairs and members, monitoring officers, representa-

tive bodies, such as the LGA, SOLACE, AC-SeS and NALC, and key stakeholders including CLG, the Committee for Standards in Public Life and the Audit Commission.

We've now completed our review. And here's what we concluded...

We found that the local standards framework is working.

It is delivering increased confidence in the accountability of local politicians, has improved member behaviour, and has contributed to better governance. It is strongly supported in local government.

However, there are problems – but we believe they can be fixed. Let's look at those problems – some perceived, some real – and the solutions we propose:

The system encourages trivial and vexatious complaints.

In some authorities, this has been a burden. We think the framework locks complaints into an inflexible process – we are recommending new filtering roles for monitoring officers and independent standards committee chairs to more quickly weed out complaints which don't belong, as well as the trivial and the obviously unfounded.

The system requires too many formal meetings, wasting time and money.

We agree. We recommend removing assessment, review and consideration meetings from the arrangements, giving independent chairs and vice chairs of standards committees a greater role in case management.

The complaints system is heavy-handed when some problems could be fixed with a little common sense.

We have always encouraged informal aspects of resolving issues – discussion, mediation, apology, working with political groups, and so on – and we want to give these even more emphasis.

Members aren't told soon enough when there are complaints about them. And we

agree. We think members should be told they have been the subject of a complaint as soon as it's received – unless there are compelling reasons not to.

Once it's decided to start an investigation, it can't be stopped, even if the complaint is withdrawn.

This should change. Local standards committees must be able to stop an investigation at any stage, if it is right to do so.

Handling complaints about parish councillors swamps authorities.

We don't believe parish councillors should be cut adrift from the code of conduct. Their standards are important too – and increasingly, so if their role and powers are increased in future. A small number of principal authorities have had difficulties, but we think the changes we're proposing would help them deal effectively with parish complaints.

The local standards framework is costly.

We need to do more work with local government to understand and control cost drivers – investigation costs, for example. But the recommendations we are making will all reduce costs and allow the framework to focus on serious issues of bad behaviour or low standards.

What happens next? We have submitted our report and recommendations – which will be available soon on our website – to CLG for its consideration. Some of the recommendations would require changes to the law, others can, if agreed, be implemented through clearer guidance.

Through these recommendations we believe the local standards framework can be more proportionate, transparent, timely and effective, and so make an even stronger contribution to healthy – and trusted – local democracy. ■

Glenys Stacey is chief executive of Standards for England



Standards
for England

Local Standards 2.0 – the proportionality upgrade?

A review of the local standards framework

Standards for England, March 2010

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1) Introduction

We are delighted to introduce the results of our recent review of the local standards framework '*Local Standards 2.0 – the proportionality upgrade*'. It's not just a stylistic device to give this report a 'techy' title, the parallels are valid. This is a report into the operation of a **system** a year and a half after its introduction.

And – just as with a new software application, however well designed and tested – after 18 months of live operation, collecting the experiences of real users will tell us much about how robust that system is.

Is it working as planned, or are there unintended consequences? Are there bugs and glitches which need fixing? How much does it cost to service and run? More fundamentally, is it a system worth having, or do we need something different altogether?

We know the local standards framework generates strong views. It's a system imposed by Parliament to regulate the behaviour of local politicians in their political arena – so it could hardly be otherwise.

For the purpose of this review we have collected opinion from the full range of stakeholders – weighing it alongside findings from our research programmes and evidence from cases, from our monitoring of local authorities' standards work, and from our busy advice and guidance 'help desk'.

We have also taken the opportunity to consider the principles which ought to underpin the operation of the local framework, and taken them into account in making proposals for change and improvement. In our view, these changes, if implemented, will help to achieve outcomes the public can have confidence in:

- high standards of behaviour among members of English local authorities
- an effective, proportionate redress system when members behave badly

The recommendations of this review are, we believe, timely. It makes sense to review and refine how the local standards framework is working now that we all have some experience of it in practice.

We believe that our proposals will chime with the views of those familiar with the framework in practice, and hope that they offer the Government a sound basis for development.



Bob Chilton
Chair
Standards for England



Glenys Stacey
Chief Executive
Standards for England

2) Executive summary

The local standards framework is working. There is evidence – presented within this review - that it is both having a positive influence on behaviour and generating confidence that bad behaviour will be dealt with. Within local government it attracts considerable support, although the public knows less about it.

After 18 months it is maturing and there is a body of evidence relating to most aspects of its use.

However, we know there are bugbears and glitches, both for those operating the system and those regulated under it, raising questions about the proportionality of the framework - its timeliness, cost and fairness to all, at all times.

We believe these difficulties can be fixed. The fixes are often pragmatic – ways of improving effectiveness and redressing proportionality to offer a better alignment of *nature of behaviour, degree, cost and clarity of process and sanction or outcome*.

Our recommendations, in chapter eight, are set into a narrative which describes our findings. We have also grouped the recommendations together in an appendix.

Key ones include:

- More streamlined local assessment – arrangements to more easily dismiss trivial and less serious complaints, saving on time, money and burdensome process.
- An enhanced role for independent chairs and vice chairs – in the assessment of complaints and the progress of investigations, with a counterbalancing extra power for the national regulator to investigate and if necessary remove poor performing or partisan chairs.
- A new power for standards committees to be able to halt investigations, if they have good reasons.
- A commitment to greater transparency for members who are the subject of complaints.
- The need to develop an approach which allows better understanding and management of costs associated with the operation of the framework.

We end with some thoughts about the need for and the role of the strategic regulator in this sector. With more streamlined local processes there will be extra risks to manage, and there is a growing need to provide high quality training, advice, support and access to good practice.

The review now goes to the Department for Communities and Local Government for their consideration. Although the majority of recommendations require legislative or regulatory change, some could be brought about through a change of emphasis in our work and guidance. However it is important to note that in all matters raised in this review we await government views before determining next steps.

3) Scope and methodology of this review

The remit of the review was to consider the proportionality and effectiveness of the local standards framework so as to make recommendations for improvement to the Department for Communities and Local Government.

By the local standards framework we mean those arrangements in principal English local authorities requiring them to properly constitute Standards Committees, which then carry out a range of duties, as set out in the relevant Acts of Parliament and associated regulations and guidance, including handling complaints brought against members of the authority under the national Code of Conduct for elected members.

Appendix 2 gives a brief overview of the development of the local standards framework.

Our review has been carried out in three stages:

Stage 1: We identified the key questions and issues we wanted to cover. We drew on the stated rationale behind the local standards framework, and current thinking on the principles of good regulation, in particular those that should underpin a standards framework. We considered research findings on the impact of the framework and took into account our experience of working with it. The key questions and issues we identified were:

- What has been the impact on public trust in politicians?
- What has been the impact on confidence in accountability mechanisms?
- What has been the impact on member behaviour?
- What are the key design principles of a standards framework?
- What aspects of the framework work well?
- What are the problems with the standards framework?
- What are the solutions/alternatives?
- What is the cost of the standards framework?

Stage 2: The first three questions were answered by drawing upon research already conducted. The remaining questions were addressed through a combination of previous research and experience, along with a specific consultation undertaken for us by Teesside University².

Alongside consultation with some monitoring officers and standards committee members, representatives from the following organisations have been consulted:

- Department for Communities and Local Government
- Audit Commission
- Local Government Association
- Local Government Ombudsman
- Standards Commission for Scotland

- Public Services Ombudsman for Wales
- Committee on Standards in Public Life
- Adjudication Panel for England
- Society of Local Authority Chief Executives
- Association of Independent Members of Standards Committees in England
- Association of Council Secretaries and Solicitors
- Society of Local Council Clerks
- Welsh Assembly

The Teesside work also included a comparison with the standards frameworks in local government in Scotland and Wales.

Stage 3: We developed our recommendations for improvement. To help us test and refine these recommendations we talked again with some of the organisations listed above. We know, therefore, that there is good support for the recommendations we have made.

The scope of this review did not include a review of the operation and effectiveness of the members' Code of Conduct itself as this has been the subject of a separate consultation run by CLG. Participants in the review did express concerns about the Code's language and detail and we have included a recommendation about the next formal review of the Code, which we plan to carry out during 2010-11.

4) Context to the review

The review is a timely test of opinions on our arrangements for regulating local politicians, and in any event good regulatory practice suggests that regulatory arrangements should be reviewed on a regular basis to ensure they are robust enough to deal with the issues of the day.

Since the inception of the local standards framework, in May 2008, regulation elsewhere has been under critical scrutiny: for example in the financial and social services sectors where it has been found wanting and in Parliament, where weaknesses in the expenses regime have impacted on public trust in politicians.

The public should be able to trust those that they elect to represent them and make decisions affecting their lives. The public expects elected politicians to hold themselves to high standards of conduct³ and research shows that confidence in the integrity of politicians is valued by the public⁴.

Confidence in political systems is also important. A recent poll⁵ found that 80% of people surveyed did not just blame MPs for the current problems but also 'the parliamentary system'.

Having mechanisms which ensure that politicians can be held to account is an important cornerstone of democracy. For politicians falsely accused of wrongdoing, good systems bring the added benefit of clear exoneration.

Deepening citizen participation has emerged as a theme of national policy proposals for local government. The local standards framework gives a key role to individuals from within the local community but outside of local politics, the standards committee independent chairs and independent members.

The review took place at a time of financial uncertainty and constraint within the public sector. In making our recommendations we have been mindful of this. But cost must be weighed against the benefits of effective regulation, whatever the arena for regulation.

5) Support for the standards framework: evidence from research

We can find little support for the complete removal of the ethical standards framework in local government - and wide support for having one. Specific research for this review concludes:

"... although there are problems within the existing framework, the removal of the framework (is) simply not a viable alternative. It is considered to have provided tangible benefits and to perform an extremely valuable role in local democracy²."

Since its inception there has been a growth in support for the Code of Conduct. By 2009 94% of members and officers agreed that all members should sign up to a code, compared to 84% in 2004⁶.

Other research has concluded both that the standards framework is a safeguard, vital to ensuring public accountability³ and that the standards framework has brought focus and coherence to ethical governance and the training and advice on standards expected of councillors⁷.

Members of the public are using the standards framework as a mechanism for holding local elected politicians to account for their behaviour. In 2008-09, 2,863 complaints about the behaviour of local authority members were made across England, over half by members of the public.

There is a growing perception within local government that the standards framework, in its past and present form, is improving member behaviour. However this has not translated into public perception.

Table 1. Percentage of sample agreeing with the statement 'member behaviour has improved in recent years'^{6 8 9}

Year	2004	2007	2009
Members and officers	27	44	47
Public	n/a	11	9

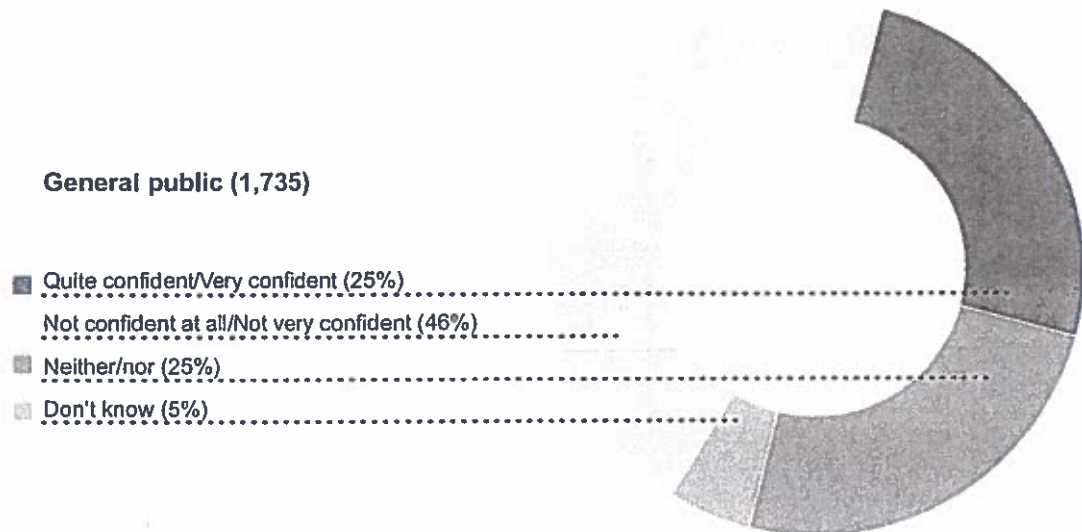
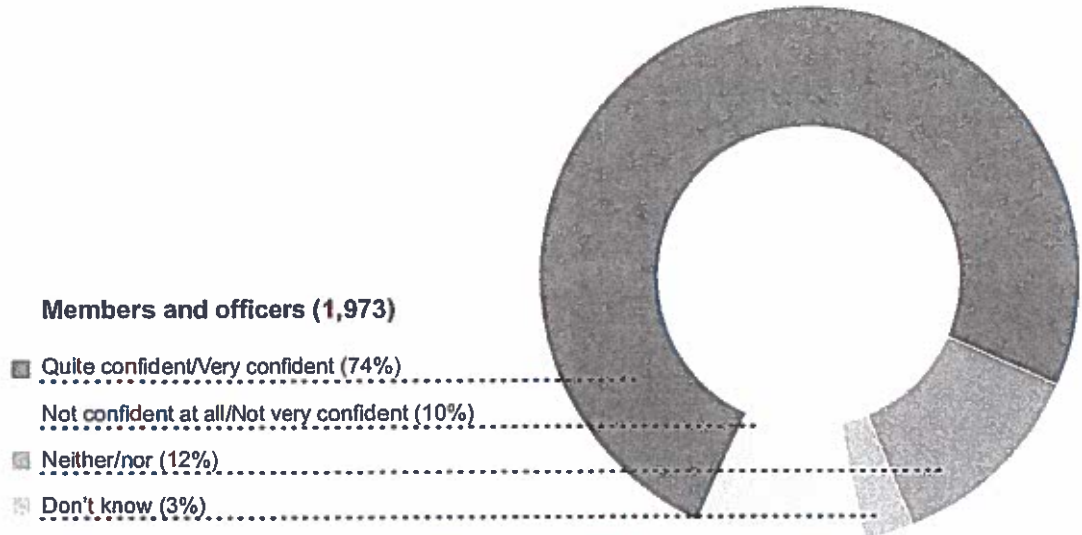
We believe that a realistic goal of ethical regulation is to ensure that accountability mechanisms are open, transparent and accessible to those who want to use them. Furthermore, the public need to have confidence that such mechanisms will uncover poor behaviours and deal with miscreants appropriately.

So, any work which seeks to assess the impacts of the standards framework in local government must include an assessment of public perceptions. In this review we have taken public views into account through specific research undertaken in 2009².

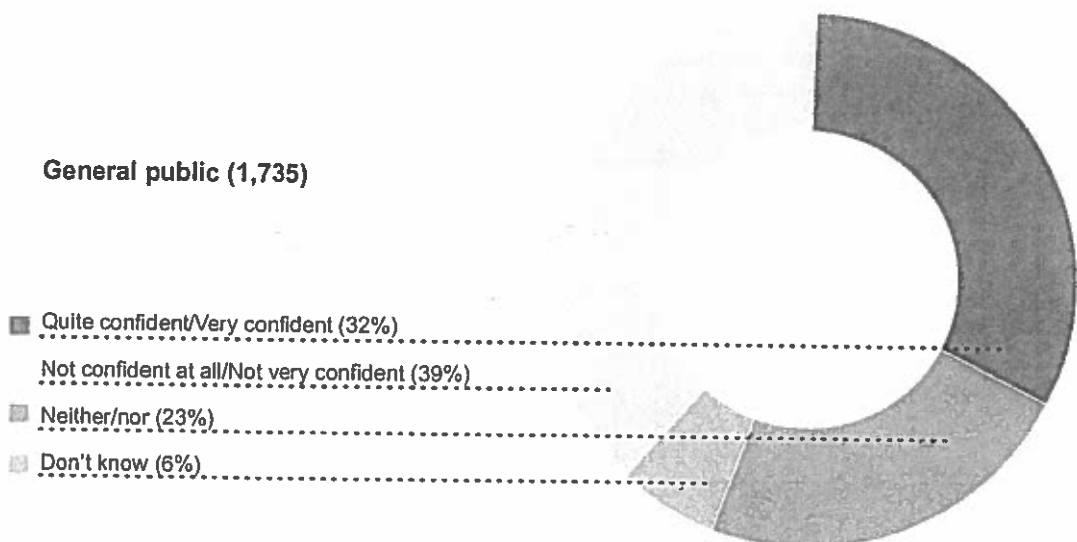
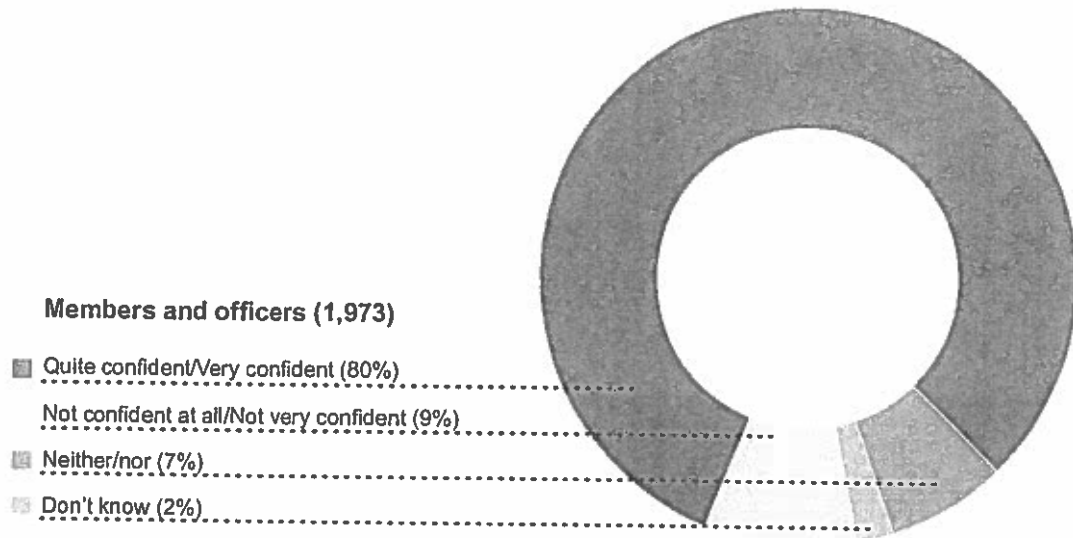
Our research suggests that the improved behaviour is due to a combination of the raised awareness of the Code of Conduct and rules of behaviour¹⁰ the support the framework provides to the sanctioning, demotion and resignation of councillors⁷ and the threat of sanctions¹¹.

There is a high level of confidence, within local government, that local authorities will uncover breaches of the Code of Conduct and deal with them appropriately⁶. Again, however, the public is not so confident¹², as illustrated below.

Confidence in local authority to uncover a breach



Confidence in local authority to deal with local councillor appropriately if a breach were to be uncovered



Many different factors combine to influence public perceptions of trust and confidence in politicians; a number of these are outside the control of local government⁷.

Public perceptions alone, therefore, are not a fair indicator of the effectiveness of the standards framework.

In 2007 a House of Commons Public Administration Select Committee concluded¹³:

'If the link between levels of regulation and levels of public trust is complex, that leads inevitably to questions about whether it is realistic or desirable to make increased trust a goal of ethical regulation.'

We want the public to recognise that principles matter to local government, and moreover to have confidence in the mechanism for holding local politicians to account.

The view from within local government that the standards framework has had an impact on behaviour is borne out by the degree to which it has influenced changes of practice.

The standards framework has brought about a range of innovation in local government which help to improve governance processes and procedures, and enhance accountability arrangements^{7, 14, 16}.

For example, there have been innovations in:

- communicating standards issues both within authorities and to the public
- training members
- engaging leaders to ensure that standards become part of the culture of the organisation
- promoting local democracy
- ensuring good governance across partnership arrangements.

There are other factors, outside the formal standards framework, which can help ensure high standards, for example the role of political parties⁷.

Research leads us to conclude, from the perspective of those in local government, that the framework has been largely effective. Benefits include increased confidence in accountability, improved member behaviour and improved governance arrangements.

6) A standards framework built on principles

A perception² of the current local standards framework is that it has developed in the absence of any design principles.

We make a distinction here between the ten principles of ethical conduct in local government¹⁷ which underpin the Code of Conduct, and a set of design principles which could help us shape the standards framework.

Based on discussions with stakeholders, we recommend eight design principles.

1. The framework should be fair. All involved should feel their views are heard.
2. The framework should be swift. It should permit the majority of allegations to be dealt with promptly.
3. The framework should be local. Local authorities should take ownership of their own standards arrangements.
4. The framework should be free from political bias. For the framework to have credibility key decisions and judgements need to be made by individuals who are, and are seen to be, free of political bias.
5. The framework should be clear and transparent. Processes, costs and outcomes should be readily understood by members, officers and the general public so that all can make judgements about the proportionality and effectiveness of the framework.
6. The framework should strike a balance between the twin tasks of promoting principles and enforcing rules. It should have access to a range of remedies and sanctions which reflect the seriousness of the particular failings of standards.
7. The framework should give the public confidence that poor behaviour will be uncovered and dealt with appropriately.
8. The framework should be cost effective. All of the above should be provided at a reasonable cost, proportionate to the benefits to accrue through improved standards.

A consequence flowing from these principles is that the full benefits of a locally based framework will only be realised if it is supported, as other regulatory schemes are, by a regulator working to best practice in regulation and seeking to achieve agreed regulatory outcomes – in this case that there are high standards of conduct among members in authorities and that there is an effective and proportionate standards framework in operation.

When applying the design principles, decisions have to be made about inherent tensions between them. Between 'fairness' and 'swiftness', for example, or between local decision making and national consistency. The framework must find ways to keep these tensions in balance.

7) The case for a local framework

Until 2008 the Standards Board for England, as it was then called, received and filtered all allegations of misconduct. Between 2002-2004 we carried out all investigations. This arrangement continues to prevail in the Scottish and Welsh frameworks. Between 2004 and 2008 we were able to refer most cases for local investigation and/or determination. Since 2008 allegations are received and assessed locally and the more serious, contentious or complex can be referred to us for investigation at a national level.

During our review we explored afresh the arguments around a centralised, versus a local, system in England.

The key advantages of a centralised system are:

- A central body dealing with all allegations is more likely to achieve consistency of process and outcome, than is a framework that allows local authorities to deal with their own cases.
- A central body removes the resource burden on local authorities of the cost of investigations and the time and effort involved in formal meetings to deal with them.
- A central, independent body would be expected to give the public a greater degree of confidence in the impartiality of the framework compared to matters being handled by a subject member's own authority.

We believe the consistency argument is one of degree. There should not be huge differences in similar cases, between authorities, in either process or outcome. However, there is room for some local variation. We are mindful of the consistency issue and **recommendation 5** addresses this further. On cost, although centralisation reduces the burden on local government, it then transfers it to a central regulator.

We also considered a regional option, where standards committees (and assessment, consideration and review committees) could be set up for a defined region. The consistency considerations apply as for a centralised model, and in addition this arrangement could be less resource intensive than a completely localised system.

But on balance we continue to support the principle of a local system, and our reasons are similar to those proffered by CSPL¹⁸. A local framework:

- enables local people to be involved in managing ethical standards issues and encourages them to be aware of issues going on in their authority
- allows the use of local information which may influence decisions about the seriousness or validity of a complaint
- provides an opportunity for the monitoring officer and standards committee to deal with some issues via more informal and proportionate methods.

The focus of this review has been on the procedural elements of a standards framework. That is, the mechanisms that are engaged following an allegation of a breach of the Code of Conduct.

However, the standards framework – and the duty of standards committees to promote high standards – is firmly located within broader ethical governance arrangements in local authorities. These impact on the culture of an

organisation and play a key role in preventing standards problems in the first place.

Such aspects include, for example, the role that leaders and chief executives can play, and the role that political parties can play in ensuring the discipline of their members. In our regulatory role we are keen to stress the importance of these aspects and to encourage and disseminate notable and innovative practice in local government.

Overall we believe local ownership is less likely to result in authorities perceiving standards issues as something 'done to them' rather than something for which they have responsibility.

In turn, this is more likely to result in the importance of high standards of behaviour being embedded in the culture of an organisation, leading to subsequent innovations that emphasise prevention.

8) Our findings and recommendations

The recommendations which follow are intended to bring a better match between the framework and the design principles set out in section 6 above.

They also set out to address particular criticisms of the current framework. It is suggested that:

- it's too easy to get on the investigative track and too hard to get off it
- the framework is too cumbersome
- trivial complaints clog up the system
- members should know as soon as possible when they have been the subject of a complaint.

We have found that making recommendations in one area, which might enable the framework to adhere to one design principle or address one criticism, has a potential impact on another area or another design principle. It follows therefore that our recommendations are interlinked and should be considered as a whole.

While based on research and taking into account the views of others, the recommendations are our own.

In some areas there are conflicting arguments for particular options. In the narrative below we set out options considered as part of the review, explain why we rejected some and provide a rationale for preferring others.

8.1) Improving the local handling of complains

A summary of how the local standards framework currently deals with complaints is set out within appendix 2, on page 35.

We found a general consensus that the current process beginning with the assessment of a complaint, and leading if necessary to its investigation and resolution, can be cumbersome, difficult to understand, resource intensive and slow.

Two broad alternatives were considered:

1. replacing the current investigation arrangements with an open hearing
2. streamlining and simplifying the process

It is worth noting that the two are not, necessarily, mutually exclusive, but for explanatory purposes, we can consider them as alternatives.

An open hearing would involve both the complainant and the member complained about, along with witnesses, coming together in a 'one-off' hearing to present evidence, answer questions and argue the merits of their cases.

A key benefit, suggested by some consultees, would be that, on the face of it at least, it simplifies the process. It would remove some of the formal meetings currently necessary as part of the process and negate the need for a resource-intensive investigation.

At the same time it would be a transparent process, giving members the opportunity to face their accusers.

There are however, disadvantages:

- Compiling evidence for a hearing would not, in our view, necessarily require less work than carrying out an investigation. Evidence would still need to be collected and disclosed to the parties involved.
- An open hearing is potentially adversarial. We believe the onus on complainants to articulate their case would be intimidating for many members of the public and could deter them from making legitimate allegations.

For these reasons we preferred the alternative, looking to see how we could streamline and simplify the existing investigative process.

8.1.1) Simplifying the local filter

Currently, all allegations received by a local authority have to be considered by an assessment sub-committee. This means a meeting must be convened between one elected member, one independent member and, if the case involves a parish or town councillor, one parish/town councillor (with the likely inclusion of the monitoring officer for advice). Arranging this meeting takes time and incurs costs. Many complaints do not need such a formal mechanism.

We feel the current arrangements are unnecessarily resource intensive and slow down the process. Making a decision about whether or not an allegation is within the remit of the Code of Conduct is relatively simple and generally uncontroversial.

In the first instance, we recommend it is made much clearer that the monitoring officer acts as an initial filter, assessing which allegations fall within the remit of the Code and which do not.

Recommendation 1:

The law should say that monitoring officers, rather than standards committees, should receive all allegations and make a decision about whether or not they are within the remit of the Code of Conduct.

8.1.2) Swift assessment by the independent chair

Building on recommendation 1, we considered two alternatives to the current assessment sub-committee approach for dealing with those allegations which the monitoring officer has deemed as being within the remit of the Code of Conduct.

- The monitoring officer should be the person who decides what should happen to those allegations which are within the remit of the Code.
- The independent chair, with advice from the monitoring officer, should be the person who decides what should happen to those allegations which are within the remit of the Code.

We are aware that many allegations, although within the remit of the Code, are not sufficiently serious to warrant an investigation. The first option would have the benefits of ensuring that cases could be assessed more quickly and involving fewer resources than current arrangements. Many of the monitoring officers we spoke to favour this option.

We are concerned that such an arrangement has the potential for the monitoring officer, as a paid employee, to be subject to pressure from elected politicians seeking to influence his or her decision. The perception of independence is compromised in this option.

The second option better addresses these concerns as standards committee chairs are not employees, but instead are chosen to represent the public with political independence a key requirement.

We recognise it is not always possible for the chair to be available to make decisions. For example, they may be on holiday or may be conflicted, and therefore we recommend that the vice chair (also independent) can deputise in such cases.

In addition, we recommend that standards committees develop a wider range of reciprocal arrangements so that chairs can assess each others' allegations. This could be particularly valuable in helping those authorities which have high numbers of allegations.

We recognise that some monitoring officers and elected members have concerns about both the skills and understanding of local government of independent chairs and the extent to which they are impartial. We address these concerns in recommendations 16 and 17.

Recommendation 2:

For allegations within the remit of the Code the independent chair of the standards committee, acting with the advice of the monitoring officer, should determine what happens to an allegation.

The chair would have a choice of five options

- to take no further action – (effectively determining that the behaviour complained about is not sufficiently serious, if proved, to warrant any sanction)
- to refer for local investigation
- to refer to SfE for investigation
- to refer to the monitoring officer for other action
- to refer to the standards committee to seek their advice in choosing one of the previous four options.

The standards committee chair should provide written reasons for each decision.

Recommendation 3:

The vice chair of the standards committee should be an independent member.

Recommendation 4:

If the chair is unavailable or has a conflict of interest in relation to an allegation then the independent vice chair should deputise. Standards committees should be able to develop reciprocal arrangements so that their chairs can assess each other's allegations.

Recommendation 5:

Standards committees should undertake retrospective periodic reviews of these decisions to ensure consistency and quality. The national body should also provide oversight via its regulatory role.

8.1.3) Removing the right to review

We know that the framework in many authorities gets 'clogged up' through having to deal with reviews of cases from those complainants not satisfied with the assessment decision.

Not only is this time consuming, it also has cost implications because a review committee or sub-committee of different members (one elected member, one independent member and, if the case involves a parish or town councillor, one parish/town councillor) needs to be set up. We also know that only around one review in 20 leads to a reversal of the original decision.

However if there is not to be a mandatory right of review, we need to make alternative arrangements to redress the perceived loss of fairness and the check and balance that the review procedure brings.

But on balance we do not believe there should be an automatic right of review built into legislation.

Recommendation 6:

The current statutory review arrangements should be removed but authorities should be given a discretionary power to allow for the review of particular decisions. This review could be undertaken by the standards committee or a sub-committee of it, by an independent member of the standards committee not involved in the initial decision or by any of these from another principal authority.

8.1.4) Removing the need for a consideration committee

The consideration committee is another committee or sub-committee that, currently, must be convened (one elected member, one independent member and, if the case involves a parish or town councillor, one parish/town councillor), following an investigation. It has to decide whether to accept a finding by a monitoring officer after investigation that there has been no breach of the Code or, if a breach is found, decide whether the

case should go to a standards committee hearing or to the First-tier Tribunal.

Again, we are aware of the time and cost involved in convening such a committee. We considered two alternatives to the current arrangements:

- The monitoring officer should determine what should happen.
- The independent chair or vice chair, advised by the monitoring officer, should determine what should happen.

The consideration committee was designed to avoid the risk of the monitoring officer being put under improper influence to bring a matter to an end by deciding there had been no breach. Hence for the same reasons as in 8.1.2 above, we decided upon the latter option.

As with recommendations 1, 2, 3 and 6, our recommendation here will enable a swifter response, and has beneficial cost implications when compared to the current arrangements.

Recommendation 7:

After completion of a local investigation the chair of the standards committee should decide whether to accept a finding of no breach, and where a breach is found, whether the case should go to a local hearing or to the First-tier Tribunal. Vice chairs should be able to deputise in this role.

Standards committees should be able to develop a wide range of reciprocal arrangements with other standards committees so that their chairs can assess each other's investigations in this way.

Recommendation 8:

The chair or the vice-chair should have a greater role in case management, making the pre-hearing decisions (For example, setting deadlines for responses to documents, deciding which witnesses should be called to give evidence and dealing with applications for an adjournment) with advice from the monitoring officer.

A consequence of recommendations 1 to 8 is that standards committees would be able to focus on the more serious matters demanding their attention including their role of promoting high standards (See 8.9), as well as their oversight role.

8.2) Deterring trivial complaints

There is a set of related perceptions and misconceptions about trivial complaints: that the standards framework encourages them; that it is

clogged up with them; and that there are serial trivial complainants who waste authorities' time and cost them large amounts of money. We believe, based on our monitoring information, that such circumstances are very rare. Nevertheless these perceptions undermine the credibility of the framework. In those few local authorities where this is true it can be a drain on resources.

Recommendations 1, 2, 3 and 6 will, we believe, enable local authorities to deal more swiftly and more appropriately with trivial or less serious complaints.

We have received suggestions for dealing with serial, trivial complainants. The following ideas were considered:

- sanctions against trivial complainants
- all complaints by a person deemed as 'a serial trivial complainant' to be dealt with by the national body
- the cost of 'failed' complaints to be met by the complainant
- the cost of complaints to be covered by the 'loser'.

All these would be likely to deter trivial complainants. However, they would also deter justified complaints. Even 'serial trivial complainants' may still, on occasion, have justified complaints.

The second option would be contrary to the principle of 'local ownership'. The fourth option could also be a deterrent to members standing for election as they would, justifiably, be concerned about incurring costs. We have decided, therefore, against any new specific recommendation to address such complainants. Instead we believe recommendations 1, 2, 4 and 7, will prevent them from using up resources and clogging up the system.

We do, however, want local authorities and standards committees in particular, to be more robust and public in discouraging trivial complaints generally and serial trivial complainants specifically.

Recommendation 9:

Standards for England should produce guidance that urges chairs to be more robust in their decision letter and highlight when they believe an allegation to have been trivial.

8.3) Closing down an investigation

A criticism of the standards framework is that it is very difficult to stop an investigation, even when it is agreed that there is little or no benefit in continuing. Examples from our own experience include when a member who had been the subject of a complaint had died, when a member has resigned and when an apology has been received, and accepted, by the complainant.

Enabling a complaint to be closed down at any time would prevent resources being unnecessarily expended. We considered the following options on who might close down a case:

- monitoring officer
- chair of the standards committee
- the full standards committee

We have referred earlier to our concerns about a paid employee being placed under political pressure and we believe that the potential for such a situation also arises here.

Our concern with the chair undertaking this role is that they may be 'too close' to the case – the chair will have been the one who made the decision to investigate in the first place and may be reluctant to overturn this decision.

We think it best if the full standards committee take this decision, based on a recommendation from the monitoring officer.

Recommendation 10:

The monitoring officer should be able to recommend to the standards committee – at any stage and for any reason – that an investigation be stopped. The standards committee should decide whether or not to accept such recommendations by considering how the public interest is best served.

8.4) Enhancing members' 'right to know'

A frequently heard criticism of the current assessment process is that members who are the subject of a complaint only find out that they have been complained about after an initial decision has been made on whether or not the allegation merits an investigation.

At present the legislation requires the standards committee to notify a member. However in order to do that they have to meet, which introduces a delay. Our guidance says members should be told as quickly as possible, but the law needs to be clarified.

However, members feel they have a 'right' to know. Potential complaints are often discussed openly and sometimes publicised, and members can find themselves the subject of rumour or press interest which they are unprepared for as they are unclear about the precise nature of the allegation.

Importantly, we feel the current situation is contrary to the design principle of transparency. On balance we think the current situation is

unsatisfactory. The framework should be as transparent as possible and members who are the subject of an allegation have the right to know, as soon as possible, about that allegation.

Recommendation 11:

On receipt of an allegation the monitoring officer should inform a member that they have been the subject of a complaint unless there are compelling circumstances not to (for example, a risk of prejudicing an investigation by intimidation of witnesses or destroying or compromising evidence).

8.5) Publishing decision notices

Currently, notice of a decision about the outcome of some investigations and most hearings has to be published in a local newspaper. The intention is laudable in that it facilitates transparency.

It does, however, have a cost impact for local authorities. The current economic climate, coupled with increasing use of the internet, leads us to conclude that a better alternative is for decision notices to be published prominently on council websites. This will keep to the design principle of transparency, yet mean an easy cost saving for local government.

Recommendation 12:

Local authorities should no longer be required to publish decision notices in the local newspaper. Instead they should be publicised on the local authority's website.

8.6) The composition of standards committees

One of our design principles is 'independence'. Recommendations 2, 4 and 7 ensure that there is an independent element in key decisions in the investigative process, and recommendation 16 will ensure independent overview of the local standards framework and its application.

We considered increasing the mandatory number of independent members on standards committees or having standards committees composed entirely of independent members. A key benefit of this would be to give the public greater confidence that local arrangements were truly impartial and that local government was not simply 'investigating its own'.

However, we believe that such a move would have negative consequences which outweigh this benefit:

- Political groups may be less likely to take ownership of standards issues, and buy-in to the importance of high standards, as it would be perceived as something outside of their remit and something that is 'done to them'.
- The credibility of standards committees, and standards issues, would be undermined as standards committees rely on elected members for their knowledge and guidance of 'how local government works'.

- We know that some standards committees already struggle to attract sufficient independent members.

On balance we believe the current approach is right.

8.7) Parish and town councillors and the Code

The inclusion of parish and town councils in the standards framework divides opinion.

There is a view that it is a disproportionate mechanism for parish and town councils, particularly those which have few resources and few powers

On the other hand we believe that parish and town councils should be included within the standards framework and our reasons echo those of the CSPL¹⁸; parish and town councils are part of the fabric of local democracy, and many do spend significant sums of public money.

All national parties have plans to increase the significance of this sector and such councils are statutory consultees in the planning process. We think that it is beneficial if there is a consistency of standards to which all elected members have to adhere.

The National Association of Local Councils (NALC) supports this position.

Parish councillors in fact make up around three quarters of all members covered by the Code. They account for just under half of all complaints; 2,557 between May 8 2008 and 31 December 2009.

An advantage of their exclusion would be a resource one – this would significantly reduce the number of allegations and so the amount of resources used to deal with them. However we remain convinced that parish and town councils should be included in the framework for the reasons set out above.

8.8) The cost of the local framework

It became clear during our review that quantifying the cost of the standards framework was problematic². Costs are calculated on a different basis by different authorities.

Elements of cost include the cost of convening meetings and remuneration for standards committee members, the cost of investigations and costs associated with other action and sanctions. Case costs vary depending on volume of cases, case type and methodology of investigation. Currently there is little transparency in these costs, nor consistency in the way they are calculated.

We recognise that we need to do more work to be able to offer better information on reasonable costs, both to allow authorities to better judge their expenditure and to allow the public and stakeholders to better assess proportionality and effectiveness of the framework.

The cost of investigations is of particular concern – we are interested in seeing the cost of investigations contained while maintaining natural justice.

We have been mindful of actual and potential costs to local government and the public purse as we have carried out this review. Many of our recommendations would result in reduced costs to local government.

For example, a local filter and reducing the number of sub-committees involved in case handling would result in lower administrative costs. Similarly, not having to publish decision notices in a local newspaper would result in cost savings.

We are also committed to providing training, guidance and support in effective and efficient investigation, to help authorities avoid unnecessary expenditure in this area.

Recommendation 13:

Standards for England should assist local government by developing a clear and consistent understanding of the costs of the local standards framework and, through working with local authorities, identify and promote ways of ensuring those costs are reasonable and that excessive and wasteful expenditure can be avoided.

8.9) The local framework and promoting high standards

The focus of the review has been on the process aspects of the framework, for example the complaints, assessment and investigative processes and the roles of the various individuals involved. We also recognise that standards committees have a statutory role to promote high standards of behaviour, and that there are many ways in which local government can engage to demonstrate high standards.

For example, engaged political parties, strong identification with the council and supportive political and managerial leadership all contribute toward good ethical governance⁷.

These duties under the framework should be encouraged. This is the promotion of ethical principles, as well as rules, which features in the design principles. The regulator should play a lead role in co-ordinating and disseminating good practice which leads to good ethical governance.

In this way local authorities will be encouraged to observe the spirit as well as the letter of the law. It also encourages local solutions, and an emphasis on prevention rather than reliance on the more costly formal elements of the framework.

Recommendation 14:

Local authorities should be encouraged to develop local solutions. Good practice in local solutions should be shared so local authorities can benefit from each other's experiences.

8.10) The members' Code of Conduct

The Code of Conduct has been subject to relatively regular review and a detailed study was not included within the scope of this work. That said, a review of the framework will inevitably include some comment on the Code.

We believe that a Code is the right way to regulate the behaviour of members of local authorities. However, the climate in which it operates changes over time, making regular review important. Reviews should, for example, take account of how the Code is being interpreted by the First-tier Tribunal (formerly the Adjudication Panel for England) and by the higher courts.

We believe future reviews should look for opportunities to simplify the Code.

Recommendation 15:

The next review should look for opportunities to simplify the Code and ensure that it is readily understood by members, and remains fit for purpose.

9) The role of the national regulator

In a year when Parliament has chosen to operate with specialist, independent regulation of its standards, we have looked again at whether there is a need for a national regulator over the local standards framework and if so what its role should be.

There would be some immediate financial benefits to national government in not having such an organisation. There would be a related reduction in regulatory burden, but a need for local standards committees to retain all cases, however challenging. Such a move would also support the design principle of local standards being a local responsibility.

There are, however, powerful arguments for a national regulator.

In the research undertaken by Teesside University² there was a strong consensus among stakeholders that national oversight gives politicians, officers and the public confidence that there is independent scrutiny of the standards framework, that poor performance is being dealt with and political interference can be addressed.

A national regulator is not just there to ensure local authorities are discharging their responsibilities – for example by monitoring complaint handling and making sure investigations are completed without undue delay – but has the key regulatory function of assessing systemic, sectoral and entity risks of standards failure – and acting to minimise them.

We accept that an emphasis on local ownership will bring variations in interpretations of the Code. But a national regulator helps bring some consistency to those interpretations, to process and to the application of sanctions. For the framework to have credibility, and avoid accusations of being a postcode lottery, any variations must be within acceptable parameters. A national body should, via its training, advice and guidance, as well as through its national oversight, ensure a greater degree of consistency than if each authority were left to its own devices.

Our own evidence shows that there is a significant demand for advice, guidance and training and development to help authorities discharge their functions. Standards for England currently provides support to local government via, for example, online training materials, telephone help lines, the ethical governance toolkit and our annual assembly. Much support comes in the form of technical expertise on case handling, and interpretations of the Code of Conduct.

This expert resource, and training role, would be particularly important for independent chairs, in light of the greater responsibility given to them in recommendations 2 and 7.

We do not want to inhibit local innovation and the development of informal options in dealing with standards issues. Recommendation 14 stresses the value of this. We do play a key role disseminating examples of how authorities have developed various local solutions to ensure good ethical governance as well as good practice in case handling.

There is a small, consistent, and far from insignificant class of contentious and high profile cases (for example complaints about members of the standards committee, or complaints by senior officers about the Leader or other senior members) which it is inappropriate to handle locally and should be handled at a national level.

Recommendations 2 and 7 give greater responsibility to independent chairs. We know that some monitoring officers and elected members have concerns about both the skills and impartiality of independent chairs. We need sufficient checks and balances to safeguard against poor performance and inappropriate political interference, and we believe this imposes a need for further training and guidance from Standards for England and for a specific extra power to deal with poor performance of independent standards committee members.

Standards for England is committed, in its 2010-13 Corporate Plan, to carrying out a review of its powers to ensure it is able to respond appropriately, proportionately and effectively to meet the requirements of its regulatory role. That work would need to take into account the implications of the recommendations set out in this review, if they are accepted.

Recommendation 16:

Standards for England should develop its training role. In particular it should respond to the increased responsibility given to independent standards committee chairs by ensuring basic training is provided to enable them to fulfil this role.

Recommendation 17:

The national regulator should have power to investigate allegations that the chair/vice chair of a standards committee was not acting impartially, or performing poorly. If there is sufficient evidence that this is the case then the national regulator should be able to remove the chair/vice chair of the standards committee.

Appendix 1

The Recommendations

The recommendations are repeated here, alongside a note of the main legislative provisions which would need to be amended to bring about the proposed change.

Recommendation 1:

Monitoring officers should receive all allegations and make a decision about whether or not they are within the remit of the Code of Conduct.

Changes to s.57A(1) and s.57C LGA 2000 to replace references to the standards committee with references to the monitoring officer

Addition to Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to allow monitoring officers to do this.

Change to paragraph 11 of the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to allow monitoring officers to inform the subject member on receipt of the complaint.

Recommendation 2:

For allegations within the remit of the Code the independent chair of the standards committee, acting with the advice of the monitoring officer, should determine what happens to an allegation. The chair would have a choice of five options:

- to take no further action (effectively determining that the behaviour complained about is not sufficiently serious, if proved, to warrant any sanction)
- to refer for local investigation
- to refer to Standards for England for investigation
- to refer to the monitoring officer for other action
- to refer to the standards committee to seek their advice in choosing one of the previous four options.

Changes to s.57A (2)-(6) LGA 2000 to replace references to the standards committee with references to the chair and to add the additional option of referring to the standards committee for advice on which option to choose.

Changes to paragraphs 6 – 8 Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to replace references to the standards committee and sub-committees with references to the chair

The standards committee chair should provide written reasons for each decision.

Recommendation 3:

The vice chair of the standards committee should be an independent member.

Addition to s.53(4) LGA 2000

Recommendation 4:

If the chair is unavailable or has a conflict of interest in relation to an allegation then the independent vice chair should deputise. Standards committees should be able to develop reciprocal arrangements so that their chairs can assess each other's allegations.

The following provisions would need amending to allow the vice-chair to deputise and to allow for reciprocal arrangements:

s.56A LGA 2000

s.57A LGA 2000

Paragraphs 6 – 8 Standards Committee (England) Regulations 2008 SI 2008 No. 1085

The Standards Committee (Further Provisions)(England) Regulations 2009 SI 2009 No. 1255

Recommendation 5:

Standards committees should undertake retrospective periodic reviews of these decisions to ensure consistency and quality. The national body should also provide an oversight via its regulatory role.

Addition to the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to require the retrospective reviews.

Also possible addition to regulation 3(2) of the Standards Committee (Further Provisions)(England) Regulations 2009 SI 2009 No. 1255 to include additional intervention powers based on concerns about the way in which the independent members are carrying out the initial assessment function.

Recommendation 6:

The current statutory review arrangements should be removed but authorities should be given a discretionary power to allow for the review of particular decisions. This review could be undertaken by the standards committee or a sub-committee of it, by an independent member of the standards committee not involved in the initial decision or by any of these from another principal authority.

Amend s.57B LGA 2000 by removing the mandatory review provision but allowing a discretionary one.

Paragraphs 6, 7 and 8 of the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 would need amending to reflect the proposed discretionary nature of a review.

Recommendation 7:

After completion of a local investigation the chair of the standards committee should decide whether to accept a finding of no breach, and where a breach is found whether the case should go to a local hearing or to the First-tier Tribunal. Vice chairs should be able to deputise in this role. Standards committees should be able to develop a wide range of reciprocal arrangements with other standards committees so that their chairs can assess each other's investigations in this way.

Addition to s.66 LGA 2000 to give the Secretary of State power to make regulations allowing the chair rather than a standards committee to make these decisions.

Amend regulation 17 of the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to allow the chair or vice-chair rather than a standards committee to make these decisions.

Addition to the Standards Committee (Further Provisions) (England) Regulations 2009 SI 2009 No. 1255 to allow the chair or vice-chair of other standards committees to make these decisions under reciprocal arrangements.

Recommendation 8:

The chair or the vice-chair should have a greater role in case management, making the pre-hearing decisions (For example, setting deadlines for responses to documents, deciding which witnesses should be called to give evidence and dealing with applications for an adjournment) with advice from the monitoring officer.

Addition to s.66 LGA 2000 to give the Secretary of State power to make regulations to allow the chair or vice-chair to make pre-hearing decisions.

Addition to the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to provide for case management.

Recommendation 9:

Standards for England should produce guidance that urges chairs to be more robust in their decision letter and highlight when they believe an allegation to have been trivial.

No statutory or regulatory changes needed to implement this recommendation.

Recommendation 10:

The monitoring officer should be able to recommend to the standards committee – at any stage and for any reason – that an investigation be stopped. The Standards Committee should view such recommendations with regard to how the public interest is best served.

Amendment to regulation 16 of the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to enable the monitoring officer to recommend that an investigation cease. Also regulations 14 and 17 would need to be made subject to the amended regulation 16.

Recommendation 11:

On receipt of an allegation the monitoring officer should inform a member that they have been the subject of a complaint unless there are compelling circumstances not to (for example, a risk of prejudicing an investigation by intimidation of witnesses or destroying or compromising evidence).

Amendment to s.57C LGA 2000 to require the monitoring officer rather than the standards committee to inform the member.

Change to paragraph 11 of the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to allow monitoring officers to inform the subject member on receipt of the complaint.

Recommendation 12:

Local authorities should no longer be required to publish decision notices in the local newspaper. Instead they should be publicised on the local authority's website.

Amendment to regulation 17(3) (b), 17(5), 20(1) (b) of the Standards Committee (England) Regulations 2008 SI 2008 No. 1085 to remove the requirement for a notice in the local press.

Recommendation 13:

Standards for England should assist local government by developing a clear and consistent understanding of the costs of the local standards framework and through working with local authorities identify and promote ways of ensuring those costs are reasonable and that excessive and wasteful expenditure can be avoided.

No statutory or regulatory changes needed to implement this recommendation.

Recommendation 14:

Local authorities should be encouraged to develop local solutions. Good practice in local solutions should be shared so local authorities can benefit from each other's experiences.

No statutory or regulatory changes needed to implement this recommendation.

Recommendation 15:

The next review should look for opportunities to simplify the Code and ensure that it is readily understood by members, and remains fit for purpose.

Changes to the Local Authorities (Model Code of Conduct) Order 2007

Recommendation 16:

Standards for England should develop its training role. In particular it should respond to the increased responsibility given to independent standards committee chairs by ensuring basic training is provided to enable them to fulfil this role.

Addition to s. 57 LGA 2000 to make clear that the training role is a function of Standards for England. Addition to Schedule 4 paragraph 2 of the LGA 2000 for the same purpose.

Recommendation 17:

The national regulator should have power to investigate allegations that the chair/vice chair of a standards committee was not acting impartially, or performing poorly. If there is sufficient evidence that this is the case then the national regulator should be able to remove the chair/vice chair of the standards committee.

Addition to s.57D LGA 2000 to enable regulations to be made for intervention by the Standards for England where the chair/vice chair of a standards committee is not acting impartially, or is performing poorly.

Addition to regulation 3(2) of the Standards Committee (Further Provisions)(England) Regulations 2009 SI 2009 No. 1255 to include additional intervention powers based on concerns about the way in which the independent members are carrying out the initial assessment function or any other function carried out as a result of these recommendations.

Addition to the above regulations to provide a mechanism for removal of the chair/vice chair of a standards committee.

Appendix 2

Background to the local standards framework

Although local government has been described as having a relatively clean bill of 'ethical' health^{18, 19, 20} there were, nevertheless, several notable incidences of poor ethical behaviour in local government during the 1970s, 1980s and 1990s.

- The John Poulson case is often cited as a landmark case of corruption in local government. Poulson was an architect who bribed numerous public figures in order to win contracts. The leader of Newcastle City Council was jailed for his role in this case.
- The 1980s saw high profile problems in Liverpool City Council, where the district Labour Party was suspended after its members were accused of putting militant tendency interests ahead of council ones.
- At Westminster City Council Leader Dame Shirley Porter was the central figure in the 'homes for votes' scandal which resulted in her being ordered to pay back millions of pounds in surcharges, costs and interest to the council.
- The 1990s saw 19 Doncaster councillors found guilty of falsifying expenses claims, with one councillor receiving a four year prison sentence in the 'Donnygate' scandal.

Concerns about the conduct of MPs and government ministers led the then Prime Minister to establish the Committee on Standards in Public Life (CSPL) in 1994. The remit of the CSPL was expanded to include conduct in public life more generally and its third report, published in 1997, focussed on local government.¹⁹

For local government, CSPL recommended a statutory standards framework to replace the hitherto voluntary system. They called for a localised standards framework including a code of conduct to which councillors must sign up, a standards committee for each council and local government tribunals to act as independent arbiters on the code of conduct and to hear appeals from councillors and others.

The government introduced a new ethical framework via the Local Government Act (2000). The Act introduced a statutory Code of Conduct that applied to all members, and two new national bodies; the Standards Board for England, which was to assess and investigate allegations of breaches of the Code of Conduct, and would also issue guidance, and the Adjudication Panel for England which would hear the most serious cases.

Standards committees, already present in some authorities, were made compulsory and their role was to adjudicate on a completed investigation and to promote high standards.

The standards framework in local government was not merely a reaction to the risks of poor standards. Positive ambitions included a desire to build trust and confidence in politicians and local democracy, and recognition of the importance of high standards of behaviour to good governance.

Once in operation there were criticisms of this first standards framework, made worse by delays in legislation which would have enabled more cases to be referred to the local level. There was a concern that standards committees and monitoring officers were being marginalised, that the centralised system inhibited the consideration of local circumstances and context when considering cases, and that the Standards Board was unable to focus on the most serious cases.

CSPL, in its tenth report¹⁸ returned to look at the standards framework in local government and advocated a more localised framework, with the Standards Board taking a more strategic oversight role.

The recommendations were accepted by government and enacted in the Local Government and Public Involvement in Health Act (2007). Local authorities now have greater responsibility for their own ethical arrangements; standards committees handle complaints locally, not the Standards Board, and standards committees must promote high ethical standards.

The Standards Board (known as Standards for England) now has the role of a strategic regulator, overseeing the effectiveness of the local ethical standards framework, monitoring local arrangements and engaging with those authorities where standards are poor or at risk.

Standards for England still investigates those complaints not suitable for local authorities to deal with themselves, but the majority of complaints are dealt with locally.

How the local standards framework deals with complaints

The current arrangements require standards committees to convene a properly-constituted assessment sub-committee to receive complaints.

At this point they can:

- decide to take no further action
- ask the monitoring officer to investigate the complaint locally
- ask Standards for England to investigate the complaint
- ask the monitoring officer to resolve the matter through alternative action (such as mediation or training) – in which case no finding is made as to the complaint itself

A complainant, if not satisfied with the assessment decision to take no further action, has the right to have the complaint considered again by a review sub committee (properly constituted with different individuals to the assessment sub-committee).

Where complaints are investigated locally a properly constituted consideration committee is required to receive the investigation report. It can:

- agree with the monitoring officer that no further action is necessary
- refer the case to the Standards Committee or a hearing sub committee
- refer the case to the First Tier Tribunal (Local Government Standards in England)

When hearing cases, standards committees or hearing sub-committees can:

- find no breach of the code
- find a breach but no further action is required
- impose a sanction of up to six months suspension
- impose other sanctions such as a requirement that the member undergo training or apologise

The First Tier Tribunal can impose a wider range of sanction, up to five years disqualification.

A member can appeal to the First Tier Tribunal against a finding of breach and / or against the sanction applied.

The impetus for high ethical standards is mirrored by an emphasis on governance - the systems and processes, culture and values by which an organisation is controlled and directed.

Good governance is held to contribute toward improved performance, better services and stronger leadership. High ethical standards are recognised as a key component of good governance for example in CIPFA/SOLACE's good governance framework²¹ and have been included as criteria in the Audit Commission's Comprehensive Area Assessment.

Alongside these developments was the growing concern that councils were becoming disconnected from their communities and that there was a need to rebuild trust in local councillors and confidence in local democracy.

Some characteristics of public disengagement with politics are falling voter turnout, falling civic engagement and falling party memberships. While the actual cause of this disengagement is not clear, it is not hard to imagine how public perceptions of members' standards of behaviour might influence public desire to engage in local democracy.

These concerns were reflected in two white papers which formed the government's Local Government Modernisation Agenda (the 1998 white paper Modern Local Government: in touch with the people, and the 2001 white paper Strong Local Leadership, Quality Public Services) and other legislation (Local Government Acts of 1999 and 2000).

The modernisation agenda sought to achieve²²:

- improvements in local services
- more effective community leadership by councils
- increased accountability
- greater engagement of local stakeholders
- improved public confidence in local government.

Confidence and trust were closely linked with the issue of conduct so that better conduct by members and officers and being accountable (along with improved services) would result in improved confidence and trust.

Appendix 3

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Local Government **OMBUDSMAN**

The Local Government Ombudsman's Annual Review East Devon District Council for the year ended 31 March 2009

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about East Devon District Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about East Devon District Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Our Advice Team received a total of 57 enquiries and complaints about your Council in 2008/09. Planning and building control generated the most contacts, 33 in total, of which 27 were passed for investigation. Twelve other complaints across all other services areas were forwarded to the investigation team, either as new complaints or as re-submitted premature complaints. Six of these concerned housing matters. One complaint was forwarded for investigation in each of the service areas of public finance and transport and highways, and the remainder were about anti-social behaviour, drainage, and leisure and culture. Fifteen complaints were considered as premature, and advice was given in a further three cases.

Complaint outcomes

Overall, I decided 40 complaints against the Council during the year. In 13 of those I found no evidence of maladministration. I used my discretion not to investigate a further four. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In seven cases I took the view that the matters complained about were outside my jurisdiction and so they were not investigated.

Reports

When we complete an investigation, we generally issue a report. This year we issued one reports against your Council.

This resulted from my investigation of two complaints about the way the Council handled an application for a certificate of lawfulness of existing use for a caravan site bordering the complainants' properties. I found that there was fault in the way the Council dealt with the application for a certificate of lawful use. In particular, the Council failed to have adequate regard to the information available to it and took into account irrelevant factors, with the result that an intensification of an existing use was authorised. Although I did not conclude that the Council should not have granted a certificate of lawful use I found that the conditions imposed on that certificate would have been different had the maladministration identified not occurred. The complainants were caused an injustice as the quiet setting of their properties has been affected.

In this case I recommended that the Council commission independent valuations of the complainants' properties on the basis of five caravan pitches compared to 47 now considered authorised and to pay them the difference between the valuations, if any, with a further sum of £250 to each household in recognition of their time and trouble in pursuing their complaints. I also recommended that the Council draw up guidance for staff dealing with applications for certificates of lawfulness.

My report was issued in March 2009 and I am currently awaiting the Council's response to my recommendations.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority 14 resulted in local settlements but I did not recommend a financial remedy in any of these cases.

Eleven of the complaints settled locally were about the same planning matter. The Council had failed to investigate the alleged commercial use of some stables and the grazing of horses on associated land. The Council agreed to carry out an inspection to assess whether commercial use was occurring, and to inform the complainants accordingly.

In another case, a complaint about anti-social behaviour was settled locally when the Council proposed mediation, which provided a satisfactory remedy for the complaint.

Responding to a complaint about housing allocations, the Council acknowledged that it had allocated a property to a homeless applicant which was not adequate for her needs. The Council responded to this by upgrading the complainant's status on the housing register to allow her to be re-housed more promptly.

A complaint about housing repairs was also settled locally when, after meeting with my investigator, the Council undertook an inspection in order to draw up a list of repairs and agreed to replace a damaged door to the complainant's home.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 34 complaints during the year. Your Council's average response time of 32.7 days is longer than last year's time of 27.4 days and now falls outside the 28 day target response time. A number of enquires on planning cases were considerably delayed, the

most significant of these taking 73 days, but faster responses in other cases in this service area reduced the average to 24.6 days. The response time on an enquiry about local taxation was 48 days. I would welcome the Council's efforts to meet the 28 day target and restore its performance to that achieved previously.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I note your authority has not yet taken advantage of our training in good or effective complaint handling. There are cases we have upheld even though they have been through the Council's complaints procedure, and in light of the Council First initiative these courses may now be of interest to you. I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

The pattern of complaints against your Council would not appear to be unusual in the context of the number of transactions it handles on behalf of its citizens during a year. I am grateful for your willingness to settle complaints where it is appropriate.

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**J R White
Local Government Ombudsman
The Oaks No 2
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June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a 'statement of reasons' for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council's own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. This number will not be the same as the number of complaints forwarded from the LGO Advice Team because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.-

Table 4. Average local authority response times 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

**Appendix 2: Local Authority Report - East Devon DC
LGO Advice Team**

For the period ending - 31/03/2009

Enquiries and complaints received	Housing	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	8	0	5	0	2	15
Advice given	0	0	1	1	1	3
Forwarded to investigative team (resubmitted premature)	3	1	6	1	1	12
Forwarded to investigative team (new)	3	0	21	0	3	27
Total	14	1	33	2	7	57

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	2	14	0	0	13	4	7	40

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	34	32.7
2007 / 2008	18	27.4
2006 / 2007	12	26.4

Average local authority response times 01/04/2008 to 31/03/2009

Types of authority	≤ 28 days %	29 - 35 days %	> = 36 days %
District councils	60	20	20
Unitary authorities	56	35	9
Metropolitan authorities	67	19	14
County councils	62	32	6
London boroughs	58	27	15
National park authorities	100	0	0



Via email

11 June 2010

Dear Colleague

STANDARDS FOR ENGLAND ANNUAL ASSEMBLY 2010

As you will be aware the Government has announced that there will be provisions in its proposed Decentralisation and Localism bill 'to abolish the Standards Board regime'.

We are making changes to our plans, to reflect the new situation, and I am writing to you now in relation to one of our planned key events, the Annual Assembly due to take place at the International Convention Centre (ICC), Birmingham, on 18 and 19 October this year.

We do not expect the draft bill to be published until the autumn, when we can expect to understand better the implications for local government, and know to what extent any local standards framework is proposed. This will be too late to inform our event preparations, and in consultation with CLG we have now taken the decision to cancel the 2010 Annual Assembly.

Our external event partners – Benedict Business Resources – will be writing shortly to individuals who are already booked to attend the event, and I thought you would appreciate this advance notice. Delegates will receive a full refund, with Benedict's contacting individual delegates directly with the necessary details in next few days.

We are contacting our scheduled event speakers to let them know of the decision. In the meantime, if you need clarity on any specific issues, please do call our enquiries line.

Yours sincerely

Glenys Stacey
Chief Executive

Standards Committee Forward Plan

<p>2 November 2010 Committee</p>	<ol style="list-style-type: none"> 1. Election of Chairman 2. Communications update: Head of Organisational Development and Head of ICT to attend 3. Complaints update 4. Member training and development update 5. Ombudsman's annual letter 6. New or amended legislation update 7. Forward plan
<p>15 March 2011 Committee</p>	<ol style="list-style-type: none"> 1. Annual Report covering: <ol style="list-style-type: none"> a. The role, function and membership of the Standards Committee and its subcommittees b. Any relevant new legislation, guidance or rules c. Issues considered by the Committee in the last year d. Complaints received during the year and the Standards for England returns data e. Applications for dispensations f. Training g. Advice, policy and procedures h. Standards for England publications i. Ombudsman complaints j. Budget 2. New or amended legislation update 3. Forward Plan Make sure o communications/letters go out fro SC members that could impact on any elections

These are the main items, but there may be other matters arising through the year that members want to include too.



