

2009 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

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Why has this Agenda Item come before the Committee?

- This Item reports on the above Assembly and brings to Members' attention some changes in practice and advice and also highlights some areas where the Committee may wish to consider making changes to the way it and its sub-Committees work.

Recommendations

- That the report be noted and that the Committee consider any changes to its or the Council's working practices arising from this report.

1. INTRODUCTION

1.1 The Annual Assembly took place on 12th and 13th October 2009 at the ICC Birmingham. It was attended by approximately 800 delegates, who included Chairs of Standards Committees, other members of Standards Committees, Councillors and Monitoring Officers. Sessions during the two days included Plenary sessions and Workshop sessions.

2. FIRST PLENARY SESSION

2.1 This was made up of presentations from the Chair of Standards for England and its Chief Executive. First point of note- Standards Board for England has recently changed its name to Standards for England. It is difficult to say its new name without including "Board" but it becomes easier with practice.

2.2 A revised Code of Conduct would become available in November or December and would come into effect from May 2010.

2.3 Some statistics:-

- a. In 2008-9 the average number of complaints received by Councils was 8;
- b. Standards Committees took no further action on over half of all complaints received and decided to refer almost a third for investigation;
- c. In almost 40% of cases where the Assessment Sub-Committee decided to take no action, the person making the complaint asked for the decision to be reviewed;
- d. 12% of cases were referred to the Monitoring Officer for "Other Action"- for which, see later.

e. Assessment Sub-Committees took an average of 20 working days to make initial assessments about complaints.

2.4 Their key conclusions were:-

High Standards

Standards of Behaviour amongst members of English local authorities are generally high. During 2008-9, only 15 members were suspended or disqualified, and in a further 10 cases members were suspended pending some action on their part, often writing an apology.

Framework Established

Authorities have given good commitment to their duties to establish and operate a local standards framework.

Local Assessment

Numbers of complaints are broadly consistent with previous years when they were all received by the Standards Board. Significantly more complaints are being investigated under the new regime.

Parish challenge

In a small but significant number of cases the role of overseeing Parish Councils has been very onerous. When this happens the role of Districts is to provide leadership in good governance.

Proportionality

Standards for England need to decide the best means of maintaining public confidence in ethical standards in local government. They will be making recommendations to Government on how the framework might be optimised.

Public Confidence

Although there is considerable officer and Member confidence in the Code and the Local Standards Framework it has made little impact on the public. Standards for England would like to see more engagement with the public (see a later agenda item - Raising the Profile...)

3. WORKSHOP- UNDERSTANDING PRE-DETERMINATION AND BIAS

3.1 Pre-Determination means closing the mind to all considerations other than the views already held. Where actual or apparent pre-determination or bias is found paragraph 5 of the Code of Conduct is potentially engaged because behaviour of a Councillor which renders a decision of a Council unlawful is capable of amounting to conduct which could reasonably be regarded as bringing both the office of member and the authority concerned into disrepute.

3.2 The courts have recently told us that pre-determination can be found in one of two ways:- 1. Through actual predetermination; 2. In circumstances where a fair minded and informed observer would conclude that there was a real risk that one of the decision makers had predetermined the outcome (“ apparent predetermination”).

3.3 However, the Courts have accepted manifesto commitments and policy statements which are consistent with a preparedness to consider and weigh relevant factors when reaching the final decision are examples of legitimate pre-disposition not predetermination.. Further the fact that the member concerned has received relevant training and has agreed to be bound by the Code of Conduct is a consideration to which some weight can properly be attached when determining an issue of apparent predetermination. The fact that members of a political party all vote in the same way is not evidence of apparent predetermination.

4. WORKSHOP- STANDARDS IN PARTNERSHIPS PROTOCOL

4.1 Manchester City Council and Manchester Business School have been working together to develop a Standards in Partnership protocol to encourage high standards of behaviour of those that work in their partnerships. The reason for this was that the City Council felt it was as important to achieve good governance in partnership arrangements as it was in organisations. The key aim of the project was to develop a shared set of values and behaviours that would underpin partnership work.

4.2 I have a copy of the first draft documentation, which could form the basis of a separate report to the Committee.

5. ON THE BRINK: COMING BACK FROM ETHICAL COLLAPSE

5.1 This plenary session heard from the Chief Executive of Hull City Council (until recently dubbed the worst Council in the country) and a director of Lincolnshire County Council which had been severely criticised by the Audit Commission. Both Councils had come back from the brink- by confronting poor behaviours head on and by effective planning.

6. OTHER ACTIONS

6.1 Standards for England have recently issued new Guidance on Other Actions. This is a power which is infrequently used but can be very useful. Key messages were:-

- a. Complaints should not be referred for other action when an investigation is in the public interest, when an allegation challenges the member’s honesty or integrity, or where, of proven to be true, the alleged conduct would undoubtedly warrant a sanction:
- b. A referral for other action closes the opportunity to investigate;
- c. A decision to refer a complaint for other action makes no finding of fact, and the action decided upon must not imply that the subject of the complaint has breached the Code of Conduct;
- d. Assessment Sub-Committees cannot direct the subject member or any other party to take action. The direction is to the Monitoring Officer;

e. Although there is no formal route for dealing with a member who refuses to comply with other action, failure to co-operate may amount to bringing the authority into disrepute.

6.2 Generally there are two indicators for Other Action:-

- a. When there is evidence of poor understanding of the Code of Conduct and/or the authority's procedures;
- b. When relationships within the authority as a whole have broken down to such an extent that it becomes very difficult to conduct the business of the Council.

6.3 The steps which a Standards Committee can direct a Monitoring Officer to take are:-

- a. Arranging for the member to take a training course;
- b. arranging for the member and complainant to engage in a process of conciliation;
- c. any other steps (not including an investigation) which appear appropriate.

7. OTHER WORKSHOPS AND PLENARY SESSIONS

7.1 Other workshops and plenary sessions involved general discussions.

8. CONCLUSION

8.1 Members may wish to ask for further reports on aspects of the above or resolve to follow new procedures as a result of parts of this report.

List of Background Papers:- Delegate pack

Appendices:- None

Consultees:- Acting CX, Head of Finance and MIS.