



Standards and Ethics Award

The closing date for entries to the 2010 Local Government Chronicle (LGC) awards was Friday 20 November. Around 20 authorities entered the Standards and Ethics Award, which is supported by Standards for England. Our judges, Dr Robert Chilton, Dr Michael Macaulay and Nick Raynsford MP have reviewed the entries and shortlisted six authorities who will be announced on 17 December. The judges will then meet in London to choose a winner which will be announced on 24 March 2010.

More information on the shortlisted authorities will be available on our website in January.

Bias, Predetermination and the Code

At this year's Annual Assembly we ran a session called 'Understanding Predetermination and Bias'. It looked at the relationship between bias, predetermination and the Code of Conduct (the Code). The session proved to be hugely successful in providing information that all standards committees and monitoring officers should be aware of, particularly as it drew on recent and relevant case law in this area. This article attempts to draw out some of the key messages from the session that make understanding predetermination and the Code easier.

Predetermination is a more accurate term than 'bias' used to describe a state of mind which is capable of breaching both the law and the Code. This is not to be confused with predisposition where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the council meeting. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly.

There are two types of predetermination; actual and apparent:

- **Actual predetermination** is when a person has closed their mind to all considerations other than an already held view.
- **Apparent predetermination** is where the fair minded and well-informed observer, looking objectively at all the circumstances, considers that there is a real risk that one or more of the decision makers has refused even to consider a relevant argument or would refuse to consider a new argument.

Recent case law has provided some clarity on how to establish whether predetermination might have occurred by using a two stage test:

- **Stage one** - all the circumstances which have a bearing on the suggestion that the decision was undermined by actual or apparent predetermination must be established.
- **Stage two** - the questions to be asked are:
 - a) was there actual predetermination or
 - b) were the circumstances such as would lead a fair minded and informed observer to conclude that there was 'real risk' that one of the decision makers had predetermined the outcome?

It is important to note that apparent predetermination is to be assessed having regard to all the circumstances which are apparent upon investigation. This extends beyond the circumstances available to the 'hypothetical observer.'

This could include information on any other relevant facts affecting the decision, for example, council procedures. It does not include evidence from the member concerned as to their state of mind or evidence from the complainant as to why they believed the subject member's mind was closed.

The test is objectively looking at what view the facts give rise to. The courts have decided that the fair minded and informed observer has: access to all the facts, is neither complacent nor unduly sensitive or suspicious when looking at the facts, is able to decide between the relevant and irrelevant and on the weight to be given to the facts and is aware of the practicalities of local government.

The courts have accepted that these practicalities mean that the **fair minded and informed observer** accepts that:

- a) 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 predisposition not predetermination.
- b) The fact that the member concerned has received relevant training and has agreed to be bound by a Code of Conduct is a consideration to which some weight can properly be attached when determining an issue of apparent predetermination.
- c) Previously expressed views on matters which arise for decision in the ordinary run of events are routine and councillors can be trusted, whatever their previously expressed views, to approach decision making with an open mind.

d) To suspect predetermination because all members of a single political group have voted for it is an unwarranted interference with the democratic process.

e) Councillors are likely to have and are entitled to have, a disposition in favour of particular decisions. An open mind is not an empty mind but it is ajar.

What has become evident is that **the threshold**, in the context of administrative decisions, on the test of apparent predetermination is an extremely difficult test to satisfy. Unless there is positive evidence that there was indeed a closed mind, prior observations or apparent favouring of a particular decision is unlikely to be sufficient to establish predetermination.

The Adjudication Panel for England (APE) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 Code breach. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraph 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

For more information on the relationship between predetermination and the Code, what the practicalities of local government have been held to be and case details please see [Day One](#) on the events page of our Annual Assembly website.

For further information on determination please see our [Online Guide on Predetermination and Bias](#).

Local Assessment: sharing lessons learnt

One of the breakout sessions at our Annual Assembly in October was entitled *Local Assessment, sharing lessons learnt*. This session took the form of a discussion forum giving delegates the opportunity to share their experiences of the local assessment process since its introduction in May 2008.

Sessions were held in tandem for monitoring officers and standards committee members respectively. This gave each group the opportunity to share with their peers the challenges that had arisen in their authority and the solutions they had developed to meet these challenges. In addition, delegates

suggested a number of changes to the local standards framework. We value these suggestions but, clearly, many need further evaluation before a decision could be taken whether to make any changes.

A full breakdown of feedback from the sessions can be found on our dedicated [Assembly website](#), but we thought you might be interested in hearing what some of the main issues discussed were.

Top five issues discussed

1. Vexatious or Persistent Complainants

This topic was raised in all four sessions that took place. Potential solutions suggested by delegates included:

- asking for further Standards for England guidance on the definition of what a vexatious complaint is
- change legislation to allow monitoring officers to filter out such complaints and allow committees to refuse complaints from vexatious complainants
- having robust assessment criteria to filter out such complaints at assessment
- to write warning letters to complainants deemed vexatious by the council procedures
- to deliver targeted training
- to publish the average cost of assessing and investigating a complaint.

We are aware that persistent vexatious complainants are causing problems for a number of authorities. This is one area where we intend to provide further guidance for standards committees early in 2010, although we recognise that guidance alone is unlikely to solve this issue.

2. The role of the monitoring officer

Delegates questioned what role, if any, a monitoring officer should have in filtering out complaints before formal assessment by the standards committee. A variety of suggestions were made including that:

- Standards for England should produce further guidance on what steps monitoring officers can take before assessment
- monitoring officers should be given the power to filter complaints before assessment in consultation with the standards committee chair
- monitoring officers should make the initial assessment decision with any review undertaken by the assessment sub-committee

- monitoring officers should make the initial assessment decision for parish complaints
- there should be discretion to halt the formal process if a local solution is reached.

3. Informing the subject member that a complaint has been made

Currently monitoring officers can take the administrative step of informing a member that a complaint has been made about them. However, the current regulations do not allow them to disclose any details of the complaint. Many delegates felt that this puts monitoring officers in a difficult position, especially in circumstances where the complainant has spoken to the press.

Delegates suggested a number of solutions and changes that they would like to see including:

- asking members in advance whether they would like to be told if a complaint is made about them, and make them aware they cannot be told any details until after the assessment
- giving monitoring officers the discretion to reveal some details of a complaint to the subject member depending on the circumstances, in consultation with the standards committee chair
- requesting guidance from Standards for England on what the subject member should be told prior to assessment
- requesting guidance from Standards for England on what the subject member should be told prior to an investigation.

4. Resources

A number of delegates highlighted problems with finding resources to deal with processing complaints. There were some suggestions that monitoring officers could use the Local Government and Housing Act 1989 to ensure they had adequate resources to perform their functions.

Another suggestion was that parishes should either be asked to contribute or alternatively they should be charged for processing complaints about parish members. Currently parish councils cannot be charged for any costs incurred during the assessment or investigation of a complaint about a parish member.

5. Quality of complaint information

Delegates stated that poorly written complaints and lack of information from the complainant could make it difficult to make an assessment decision.

Delegates suggested that:

- a model complaint form from Standards for England would be helpful (we have already published a complaints form – [click here to download](#)).
- complainants should be encouraged to use, or that it should be mandatory to complete, an official form
- monitoring officers should request further information from the complainant if there is insufficient information to make an assessment decision
- the complainant should be asked what they would like the outcome of the process to be.

We are currently undertaking a review of the local standards framework and information gathered from the sessions will feed into this review process. However, some of the changes to the standards framework suggested would be difficult to implement as they would require primary legislation to be amended.

A number of requests were made during the sessions for further guidance from Standards for England. We will consider these requests and use the feedback to inform future guidance updates.

Annual return 2010

In April 2009 we collected annual information returns from the 438 local authorities that we work with, covering the period 8 May 2008 to 30 March 2009.

It is important for us to collect information from monitoring officers and standards committees on how they are helping to maintain high standards of ethical conduct in their authorities. This assists us in ensuring the effectiveness of local standards arrangements.

Last year's return was an opportunity for monitoring officers and standards committees to tell us in detail about the particular achievements, successes and difficulties they had in supporting and promoting the ethical framework. We used the returns to build up a bank of notable practice examples to share across the standards community. Many of these can be found on a dedicated [notable practice](#) section of our website and in our [annual review of 2008-9](#).

We will be continuing to collect examples of notable practice in the annual return 2009-10. The information we gather will allow us to cultivate a national overview of the local operation of the standards framework. We will use this to identify strengths and weaknesses of the framework, prompting where we should be producing guidance or seeking policy changes in response to emerging national trends.

The questions in the annual return are currently being developed. Some will stay the same as last year so that we can report on progress, but many of them will change.

Our reasons

We are aiming to have a shorter questionnaire which will use tick boxes where possible to capture practices that are common across many authorities. This should mean that less time is required completing responses; unless there are exceptional circumstances or innovative activities to tell us about. We only expect authorities to provide lengthy responses where they think that a narrative will help others in the standards community who may find themselves in a similar position.

We appreciate that the timing of the annual return is not ideal. April marks the start of the new financial year and is inevitably a busy time for all concerned. However, we want to be able to relay the messages from the year as soon as possible. Therefore, like last year, we will be asking for annual returns to be completed during April and May.

To help authorities complete this task during a busy time, we will be publishing the questions earlier. We hope to communicate the questions to monitoring officers in January 2010. This is so authorities have more time to plan and consult with their standards committee and other key figures, such as the council leader and chief executive, when preparing their responses.

Governance Toolkit for Parish and Town Councils

The second edition of the Governance Toolkit for Parish and Town Councils was well-regarded, winning a *Municipal Journal* Legal Achievement of the Year Award in 2007. The third edition of this valuable resource was finalised in April and is now available to download.

This edition has been revised, updated and produced in partnership between the National Association of Local Councils, the Society of Local Council Clerks, Standards for England and the Association of Council Secretaries and Solicitors. It is also endorsed by the Local Government Association. Milton Keynes Council, a fully parished part urban and part rural authority, is recognised as having been at the forefront of parish council initiatives for many years, and undertook the editing and production of this edition of the toolkit.

This new edition toolkit is a comprehensive, practical reference guide. The topics covered include governing documents, public engagement and managing information, creation of new town and parish councils and elections.

The toolkit will be most useful for

- town/parish clerks and councillors
- those interested in becoming a parish councillor

- principal councils wanting to establish parish councils in their areas
- monitoring officers.

If you would like to download a copy, you can find it in the [Resource Library](#) on our website under 'toolkits'.

Assessment Made Clear DVD

Copies of our new DVD – '*Assessment Made Clear*' have now been distributed to local authorities. We are keen to hear your feedback and so with each DVD there is a freepost feedback postcard, which should be quick and easy to complete and return to us. If you prefer to provide feedback online there is now an [online form](#) on our website.

So far we have been pleased with the response you've given to its approach in dealing with different assessment scenarios. However, some monitoring officers have expressed disappointment that it is not possible to freely copy the DVD as was the case with our previous DVD.

We have not envisaged a need for authorities to consider widespread distribution of this particular DVD. Our view is that this DVD is targeted at standards committee members serving on assessment sub committees and is best watched in a training situation, where group discussion supports the learning points set out in the DVD.

While it may be considered informative for a wider community of local councillors and appropriate officers, for such audiences we believe the context of the DVD, and discussion around it, are best moderated within a group training setting.

We do appreciate there may be cases where exceptions are to be made - so we have taken the decision to make further copies of the DVD available from us for £12.50.

Using the DVD

Alongside the usual features, the DVD includes 'pause and discuss' slides to allow you to pause after each case study and, as a group or as individuals, discuss or think through what you would do in that situation.

Subtitles are provided as an extra and scene selection allows you to revisit easily the sections that are of most interest to you. A pdf of the learning points is also available when viewing the DVD on your PC.

You can [view a trailer](#) of the DVD on Standards for England's website.

To order further copies please contact publications@standardsforengland.gov.uk or call our reception number – 0161 817 5300.

Police authorities and joint standards committees

In the *Joint standards committee guidance* we state that a police authority is unable to enter into joint arrangements with another police authority because Section 107(2) of the Local Government Act 1972 prevents them from having any of their functions carried out by other police authorities.

After receiving a large number of queries about this from police authorities we consulted again with Communities and Local Government. As a result of this liaison we now believe that our original interpretation of the legislation was incorrect. It is now understood that the 1972 Act does not prevent police authorities from forming joint standards committees with each other in line with the [Standards Committee \(Further Provision\) \(England\) Regulations 2009](#).

We would like to take this opportunity to apologise for the confusion. Our guidance will be modified shortly to reflect our updated position.

Review of the standards framework

We have all been operating the new standards framework for 18 months. As such, now is a good time for Standards for England, as the strategic regulator responsible for making sure it works effectively, to carry out a review of its effectiveness and proportionality. Where necessary we want to make recommendations to Communities and Local Government (CLG) for improvement.

We already have much of the information we need gathered from our research among various stakeholder groups (to which many of you have contributed - thank you), and from our own experience of monitoring and working with the standards framework. Soon we will be consulting with various bodies representing key local government and standards interests on what they think and about any recommendations we want to make. Our intention is to send these recommendations to CLG in March of next year.

We will keep you informed on the progress of the review through future bulletins and on our website. If, in the meantime, you have any queries then please contact Dr Gary Hickey on 0161 8175416 or gary.hickey@standardsforengland.gov.uk

Share your experiences of local standards

You can discuss anything you find topical in this Bulletin with fellow monitoring officers or standards committee members by using our new online forum. The Standards Forum, launched in October, provides a place for you to network, ask questions, share good practice, make recommendations and discuss any topics relating to the local standards framework.

All monitoring officers were automatically registered for the Forum and asked to send us the details of any members of their standards committees who wanted to join along with one other nominated officer. We have had a positive response and registered an additional 300 users, with more requests for membership being received daily. We intend to open membership up further by granting a further two officer registrations for each authority once we have registered this first wave of users. This is likely to happen early in the new year.

There are currently over 30 different subjects being discussed on the Forum. Popular topics include recommendations for external investigators and trainers; debates about protocols including the notification of subject members and the publication of decision summaries; and advice on the recruitment of parish members.

To find out more please access the [forum](#).

If you have any questions please contact forum@standardsforengland.gov.uk

Reminder: the importance of completing information returns

Within part 10 (Ethical Standards) of the Local Government and Public Involvement in Health Act 2007 it states that local authorities must send a periodic information return to us when we request one.

The periods we have specified, in the interest of not placing an unnecessary burden on local authorities, are the financial year quarters. In addition, we request a further return on an annual basis, meaning that there are five information returns required per year.

The information returns are extremely important. We need them to keep us up-to-date with how the local framework is functioning. They allow us to identify individual authorities that are not complying with the local standards framework or who are facing difficulties in implementing it.

So far authorities have been responsive in providing us with information on their experience, and the average percentage of returns completed for each quarter of the year is 99%. Over the 6 quarters for which we have requested returns, there have been just **13** instances where authorities have not provided a response. This is not bad when you consider there are over 400 authorities that we send requests to.

However, it often takes a significant effort to collect all of the returns. Roughly 75% of authorities complete their return by our deadline which is 10 working days after the close of each quarter. But the remaining authorities, who number more than 100, require multiple e-mail reminders and telephone calls before they complete their return. This is unacceptable, as it means it takes us longer than we would like to pull together all of the data and report on our findings.

Ultimately, we expect the authority's monitoring officer to complete our information returns. However, they can delegate this task to a colleague if they wish. For consistency we will always send our email correspondence directly to the monitoring officer, but if they know that they are not going to be available when a return is due they should delegate the task to somebody who is.

For more information on Standards for England's information returns please contact our monitoring team on 0161 817 5300.

Update on the transfer of the Adjudication Panel for England into the unified Tribunal structure

On 1 September, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. The work of the Adjudication Panel for England will be transferred into the GRC in January 2010.

Legislative process

A 'Transfer of Tribunal Functions Order', transferring the functions of the Adjudication Panel into the GRC, has now been laid in Parliament. The order requires Parliamentary approval. Debates on the order will take place before the end of the year. The order contains amendments to the Local Government Act 2000, to the Standards Committee Regulations and to the Case Tribunal Regulations. Once Parliamentary approval has been obtained an amended version of each of those provisions will be available on the [Tribunals Service website](#).

The Order abolishes the Adjudication Panel for England, whose functions will then be undertaken by the First-tier Tribunal and will be known as the First-tier Tribunal (Local Government Standards, England). The President and members of the Adjudication Panel will be transferring as either judges or members of the First-tier Tribunal assigned to work in the General Regulatory Chamber of that Tribunal. The President will also be a deputy judge in the Upper Tribunal.

Impact on users

References and appeals made to the President of the Adjudication Panel are determined by Case Tribunals and Appeals Tribunals. The people who sit on those Tribunals will be the same people who determine these kinds of matters in the name of the First-tier Tribunal (Local Government Standards, England). The associated administrative work will also be undertaken by the same people as currently do this. Such work will continue to be based at the Tribunals Services offices in Leeds.

Since it was established, the Adjudication Panel has operated without any formal rules. That situation will change as a result of the transfer of work into the First-tier Tribunal. The procedure rules give more explicit powers of

direction to the First-tier Tribunal than were available to the Adjudication Panel, including power to summon witnesses.

All proceedings taking place after the transfer order comes into effect will be conducted in accordance with the rules of the First-tier Tribunal unless, in the case of proceedings which have already started, it would be unfair to apply particular provisions of those rules.

You can view regular updates on the [GRC page](#) of the Tribunals Service website.

2010 Annual Assembly of Standards Committees ‘A place for standards’

Following the success of last year’s fully booked Annual Assembly, we are well on the way to finalising the programme for this year’s event, which takes place on 18 and 19 October at the ICC in Birmingham.

We are already working with a panel of standards committee members and monitoring officers to develop a range of sessions focused on sharing notable practice, developing high standards and building confidence in managing the local standards framework.

The cost of attending both days of the Assembly has been held at £430 (plus VAT) for the fourth year running, while a one-day place is £230 (plus VAT).

Online booking is now open on our website. We will also be sending out hard copy booking forms to all authorities from mid-March. Further information about the programme and speakers will be added to the website so keep checking back for the most up-to-date information.

Stakeholder Tracker 2009 – ‘A qualitative assessment of advice and guidance’

Every two years Standards for England (SfE) conducts a ‘stakeholder tracker’ in two parts: a quantitative survey, and a qualitative investigation. This research assesses the levels of satisfaction of members and officers in local government with the performance of SfE and their attitudes to the ethical environment. As some of you may recall, the survey was completed last summer. We are now happy to report that the qualitative section of the research, which provides a more in-depth analysis of some of the issues that emerged from the quantitative research, has been completed and is available on our website. **We would like to thank those of you who participated in the research. It is only through your continued support that we are able to track our progress, and identify areas for improvement.**

BMG research carried out this research by holding a number of focus groups with monitoring officers, standards committee members and parish councillors.

Some of the findings:

- The research found that monitoring officers and standards committee members are very positive about the local standards framework. They feel it has 'bedded in' well, and welcome the chance to take ownership of the process of investigating complaints.
- SfE's monitoring officer helpline received positive feedback, and some stakeholders suggested that the service callers receive has improved over the past 12 months.
- Monitoring officers welcome the development of peer and local/regional networks – however, there is some suggestion that a number of authorities may already have some form of networking in place. They would like SfE to provide content for delivery at networking events.
- The research identified several topics on which stakeholders think SfE could provide further guidance such as more information on other standards committee practices, sanctions and proportionality, mediation, guidance specifically for parish councillors, and more advice on the overlap with Freedom of Information and Data Protection legislation.

A copy of the full report can be [downloaded here](#).

For further information, please contact:

Tom Bandenburg (Research Assistant) on 0161 817 5427 or email tom.bandenburg@standardsforengland.gov.uk

A REMINDER: Please send us your hearing decision notices

As you may already be aware, authorities are required to send Standards for England (SfE) copies of their hearing decision notices. The legal basis for this can be found in the Standards Committee (England) Regulations 2008 under regulation 20(1)(a). However, not all authorities have complied with this requirement.

Hearing decision notices provide a valuable source of information from which SfE can draw conclusions about how the local standards framework is functioning. We have decided to give greater emphasis to our analysis of the notices and we will share our conclusions with you.

What you need to do

Please send us a copy of the full decision notice for any determinations made by your Standards Committee. At the end of each quarter (from 1 April 2010) we will check whether we have received a decision notice for all the hearings completed that quarter and then contact authorities for any that are missing.

We prefer to receive decision notices as an email attachment in Word or PDF format if possible.

You can send them to authorityreturns@standardsforengland.gov.uk.

If you are unable to send them electronically, please post your decision notices to:

The Monitoring Team, Standards for England, 4th floor, Griffin House

40 Lever Street, Manchester M1 1BB

When writing the decision notices, please ensure that you include all the legal requirements set out in paragraph 20 of the Standards Committee (England) Regulations 2008. We also recommend that you refer to our guidance, which you can find in your local standards framework guide or online at

<http://www.standardsforengland.gov.uk/determinations>

Note: Please do not send us decision notices for any other type of decision such as initial assessments, reviews or consideration meetings. This is not a legal requirement and we will not be using them in our analysis.

What we will do

We will use the notices to help widen our knowledge of how the local standards framework is operating and provide some context to the quarterly returns data. The notices may also highlight areas where we can produce new guidance or improve on what we have already published.

Thank you for your co-operation. We will keep you informed of how the decision notices help us to support the local standards framework.

Adjudication Panel for England becomes known as First-tier Tribunal (Local Government Standards in England)

On the 18th January the functions of the Adjudication Panel for England were transferred to the First-tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England was abolished. The First-tier Tribunal sits in the General Regulatory Chamber with Charity, Gambling, Information, Estate Agents, Claims Management, Consumer Credit and Transport Tribunals.

The role of the First-tier Tribunal is to hear cases referred to it by an Ethical Standards Officer or a Standards Committee following an investigation. The Tribunal will also hear appeals by a subject member against the decision of a Standards Committee.

There have been changes to the powers and procedures of the Tribunal.

Powers and Procedures

The First-tier Tribunal now has additional powers and procedures. It has the power to summon witnesses or require witnesses to produce documents relating to its hearings.

All Tribunal hearings can now be conducted either orally or by written representations with the consent of all parties.

Hearings can be conducted by less than 3 Tribunal members.

The President of the Adjudication Panel for England has been appointed as a Principle Judge of the First-tier Tribunal, legal members are now Judges and lay members are members.

Appeals

Previously any appeal from the Adjudication Panel was heard at the High Court. This process has now changed. Appeals will now be heard by the Upper Tribunal. The Upper Tribunal is an appellate tribunal created by the Tribunals, Courts and Enforcement Act 2007. The Administrative Appeals Chamber is the part of the Upper Tribunal which hears and decides appeals from decisions of the General Regulatory Chamber of the First-tier Tribunal.

Who can appeal to the Upper Tribunal?

Any party may appeal to the Administrative Appeals Chamber of the Upper Tribunal if they can show that the First-tier Tribunal made an error of law.

Additionally, the subject member has the right to appeal findings of fact, if their appeal is against

- (a) a decision that they failed to comply with a code of conduct,
- (b) a decision imposing suspension or another sanction

Appeals by other parties

A further change to the appeals process is that if a subject member is successful at the First-tier Tribunal, it is still possible for an Ethical Standards Officer or Standards Committee to appeal on a point of law to the Upper Tribunal. The First-tier Tribunal will notify the subject member if any of these parties wish to appeal.

Costs

The First-tier Tribunal now has the power to make an order for costs if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings. It may make an order for costs following an application or on its own initiative.

This will mean that the Tribunal can award costs against a standards committee, Ethical Standards Officer or subject member if they have acted unreasonably in the conduct of their investigations or hearings. The First-tier Tribunal may also make an award for wasted costs incurred by any legal or other representative where the Tribunal considers that they have acted negligently, improperly or unreasonably in bringing, defending or conducting proceedings.

For more information and detailed guidance please see www.adjudicationpanel.tribunals.gov.uk

Our Risk Based Approach

One of the best practice requirements of a regulator is that they take a risk -based approach to their work: that is they are able to assess risks in their area of regulation and apply their own resources accordingly to keep risks low.

For Standards for England there are three types of risk which concern us.

- Systemic risk – risk which could lead to a widespread failing in the work of the framework or in standards across all authorities
- Sectoral risk – risk which could lead to a failing in standards in a number of similar authorities
- Entity risk – risk of a serious standards failure affecting one of the authorities covered by the local standards framework

Assessing entity, systemic or sectoral risks to standards or the success of the framework allows us to target our effort at those activities, situations or authorities that pose the biggest risk helping ensure we provide value for money.

The Success of the local standards framework relies in part on our ability to see potential pitfalls or risks to standards in advance. For example, the emergence of new technologies such as internet social networking, blogs and Twitter, have presented their own unique challenges to standards. During 2009-10 we were able to produce guidance, place articles in the local government press and give a presentation at a national members' conference on this subject.

Spotting such challenges allows us to provide early advice and guidance to the standards community to help prevent problems arising. We will be developing our approach to systemic and sectoral risk, closely linked to our research programme, to help us identify trends or potential problems, and so offer appropriate advice at the earliest opportunity.

We work closely with authorities where challenging standards issues emerge. Based on our increasing experience supporting these authorities we are developing our plans for managing entity risk.

We intend to prioritise the way we interact with authorities on the basis of our risk assessment of the likelihood and impact of any failure of standards in that authority. Working through our relationship managers we will take a differential approach based on this assessment to satisfy ourselves that authorities are working to minimise risks. We envisage working with 30-40 authorities at our highest level of contact and a further 100-120 at an intermediate level, at any one time.

Typically authorities at the lowest level of risk will be in contact with us only as they go about their routine business in operating the standards framework and sending back the required monitoring data, whereas authorities at the intermediate level might be contacted by relationship managers on a six monthly basis, and those at the highest level contacted or visited more frequently as deemed appropriate.

We will be testing our planned approach and consulting with the regulated community about it over the next six months.

Social networking: an effective medium of communication but not without risk

When it comes to reaching certain groups quickly, cheaply and maintaining control over your message, many councillors find online methods hard to beat.

At the recent Cllr' 10 event, Standards for England and the IDeA ran an interactive session which looked at how councillors can use social networking effectively and ethically to engage with their local communities.

This article highlights some of the key messages from the session for councillors.

- If you use blogs, Facebook or Twitter to help you to carry out your political work, rather than in your private capacity, your obligation to meet certain standards of conduct still applies. You can still be involved in robust political debate and state your opinions strongly – the Code does not exist to gag you or fellow councillors or stop you expressing political views. It does, however, prohibit treating others with disrespect, bullying and bringing one's office or authority into disrepute. It is important if you are blogging or tweeting personally and not in your role as councillor, that you do not act, claim to act, or give the impression that you are acting as a representative of your Authority. It is worth noting that web links to official council websites may give or reinforce the impression that you are representing the council.

- You may use a blog to draw attention to a particular local issue and call the council to account, as you would in a public meeting. However, blog entries ridiculing or attacking particular officers, or making serious accusations about their personal competence or integrity, could amount to disrespect, even bullying, in some circumstances.
- It is worth considering that while the immediacy of social media can be a great benefit, it also has a downside. For example, it is possible for you to Tweet on a matter seconds after leaving the council chamber – long before your opponents have issued press statements. This can result in broadcasting spontaneous remarks that may quickly seem unwise. By the time you have reconsidered and deleted them, they may have been seen by thousands, Facebook-shared, re-Tweeted, linked to, and committed to local headlines. That is fine, if you have got this message across just how you wanted to; less so if your post was an outburst in the heat of the moment. Such remarks are easily withdrawn, apologised for and forgotten when made in person, but posting them on the internet means that they have been published, and in a way that cannot be contained.
- It is important to note that good ethical standards are not limited to the Code of Conduct. While you may not be investigated for using online media, your conduct can still attract adverse publicity, even where the Code does not apply. For example, a regional newspaper recently called a councillor's blog post against a rival party a "toilet-mouthed tirade" saying:

"A [Code] breach it may not have been; childish, crude and demeaning to all who vote or follow politics it certainly was."

It is clear that social networking sites can enhance political debate and add positively to local politics when used correctly. [Click here](#) to see our online guide to blogging.

New Online Guides on Our Website

The Guidance and Information team has produced several new online guides at the end of 2009. They are now available on our website. Here are the titles and links to the guides:

- [Charitable Trustees and declarations of interest under the Code](#)
- [Freemasons and the Code](#)
- [Independent members](#)
- [Notifications to parish and town councils concerning complaints about their members and the Standards](#)
- [Role and appointment of parish and town council reps to the standards committee](#)
- [Blogging quick guide](#)

We hope you find these new pieces of guidance helpful. Please e-mail any feedback you have on our guidance to enquiries@standardsforengland.gov.uk

Standards Committees can take a lead from ‘notable practice’

Research into ‘notable practice’, was carried out jointly by Hull University and the University of Teesside and was finalised in October 2009. It is called ‘notable practice’ to highlight the fact that the tips for success are examples of where particular approaches have worked in certain authorities, rather than ‘set-in-stone’ rules about what should be done.

Bristol City Council standards committee was identified as being particularly effective at facilitating organisational learning, sharing learning with the local government community and acting as hub for other authorities and independent members in the South West. The focus of the case study in South Cambridgeshire was on the standards committee’s proactive approach to the recruitment and retention of independent members.

The research identified nine examples of notable practice in different authorities. Below is the list of the notable practice examples and the case study authorities.

Notable practice	Case study authority
Organisational learning	Bristol City Council
Working with town and parish councils	Taunton Deane Borough Council
Member development	Surrey Police Authority
Working with partnerships	Newark and Sherwood District Council
Recruitment and retention	South Cambridgeshire District Council
Training and development	Herefordshire County Council
Joint standards and audit committees	Runnymede Borough Council
High pressure investigations	Greater London Author
Embedding standards	Newcastle City Coun

Standards committees can now access these case studies, examine details of the notable practice, and benefit from key learning points. The research, 'Assessing the Impact of Standards Committees 2009', can be found at

www.standardsforengland.gov.uk/Resources/Research/2009reports/

Further information

For further information on this paper or any other work undertaken by the Research Team, please contact **Hannah Pearson (Research and Projects Adviser)**, email: hannah.pearson@standardsforengland.gov.uk , ext: 5417

Impartial and Objective Investigators

Standards committees must ensure that they appoint investigators who have the necessary impartiality to conduct investigations with no perception of bias. This principle of impartiality should be applied to external and internal investigators alike. It is important that any external investigators are and appear to be impartial; a characteristic which should form part of any selection criteria applied when choosing one.

One of the key benefits of reciprocal arrangements with other authorities is that they enable authorities to pass investigations involving their own employees to another council. It is the monitoring officer's responsibility to ensure they select an impartial investigator.

Have your say

Has your authority or standards committee developed an innovative way of promoting ethical behaviour or delivering the standards framework? Why not share your ideas with over 1,000 other council officers and standards committee members on the Standards Forum?

You can use the Forum to discuss anything you find topical in this Bulletin with fellow council officers or standards committee members. It provides a place to network, ask questions, share good practice and make recommendations.

There are currently over 100 posts on more than 40 different topics. Popular topics include:

- Dealing with vexatious complaints
- Developing protocols for informing members
- Promoting ethical behaviour

To have your say, visit:

www.standardsforengland.gov.uk/resources/TheStandardsForum/

If you are a member of a standards committee, a monitoring officer or a relevant officer and you are not currently registered for the forum or have any questions please email: forum@standardsforengland.gov.uk

Delay on the New Code of Conduct

As you may be aware a new Code of Conduct for Members will not be laid during this Parliamentary session. Communities and Local Government have notified us that the Government is concentrating on financial instruments and so there will not be Parliamentary time available for the Code.

In practice this means that a new Code will not now be laid until after a general election.

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