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While we wait for government to introduce the new Code of Conduct and the legislation necessary to allow local filtering of cases, movement nevertheless continues in the direction of local disputes being resolved at the local level. While local investigations now outnumber those conducted by the ethical standards officers, the issuing of directions by ethical standards officers has also steadily gained momentum in helping local resolution of disputes within parish councils. This is an encouraging trend and one that is sure to continue as the Standards Board assumes a more strategic role within the ethical environment. This issue of the *Town and Parish Standard* looks at the role and impact of recent directions and we would be interested in your views of their usefulness in settling disputes. This issue also looks at the way complaints are handled and further clarifies the sticky subject of prejudicial interests under the current Code. Enjoy the summer.

Declaring interests

There has been some confusion about the Code of Conduct in recent months. Some members appear to be unsure about the rules on declaring interests, particularly over whether they should remain in the room when matters in which they have an interest are being discussed. So the aim of this article is to clarify that issue.

The nub of the issue revolves around whether the subject under discussion is prejudicial.

Is it prejudicial?

Not all matters in which a councillor may have a personal interest are necessarily prejudicial, although the personal interest should always be declared. If you decide that the matter is not prejudicial, you may stay in the meeting and speak and vote on it. It is only when the matter is prejudicial that you will need to leave the room while it is under discussion.

So how do you decide whether a matter in which you have a personal interest is also prejudicial?

A common scenario

A frequently asked question is about whether a personal and prejudicial interest arises if the matter being considered relates to the area in which the member lives or the ward that they represent.

The answer is as follows:

You are likely to have a personal interest when the matter has an impact upon the area of the ward in which you live to a greater extent than others living in the area of the authority. However, the interest will only be prejudicial if it also has a significant impact upon yourself, or your friends or relatives or any of the other categories set out in paragraph 8(1) (a) to (d) of the Code, so that a reasonable member of the public would consider that your judgment of the public interest was prejudiced.

For instance, if a planning application is being considered for a piece of land in your ward that is situated directly opposite your property, there is likely to be a prejudicial interest.

But there will be many situations when you have a personal interest that is not prejudicial. So at those times, you will be able to fully participate and vote in the meetings.

Our proposals to Government

We have highlighted this area as one that needed particular reform in our proposals to government for changes to the Code. We feel that the situation needs greater clarity and that members should be ensured that they are able to advocate on behalf of those they represent.

We wish to see the Code make it crystal clear that, in the normal course of events, a member who merely has an interest shared with the community or an organisation that they represent should be able to take part in a meeting. It would only be where a decision is being made and they would get a clear advantage from that decision that they should be excluded from taking part.

Dual-hatted members

Another issue of concern is whether a personal and prejudicial interest arises if a member is a member of both a parish council and district council.

It is likely that, if you have already considered a matter that is before your district council at your parish council, then you will have personal interest as a result of your membership of that parish council. The matter under consideration affects the area of the parish council to a greater extent than other areas in the district. So you then need to consider whether that interest is prejudicial: in other words, would a reasonable member of the public (who knew all the relevant facts) think that your interest was so significant that your judgment would be prejudiced?

Many interests that arise from service on other public bodies or as a representative of the authority will not be prejudicial.

Guidelines for dual-hatted members

Generally speaking, if the parish council has simply considered the matter under consideration and it has no direct impact upon you or your family or friends, you are likely to only have a personal interest when considering the matter afresh at the district council.

If you are in this situation, you are advised to adopt the following approach:

- at the parish level, make it clear that you will reconsider the matter at the district level, taking

into account all relevant evidence and representations at the district tier

- at the district level, declare a personal (but not prejudicial) interest arising from your membership of the parish council that has already expressed a view on the matter, and make it clear that the parish council's view does not bind you and that you are considering the matter afresh.

District-level discussions about parish councils

However, it is a different scenario if the matter being considered at the district level relates directly to your parish council — for instance, a planning application. In that instance, it is unrealistic to expect a member of the public to believe you would disregard the interests of another public body on which you serve. So, in this case, you should withdraw from the room during consideration of this matter.

Another instance is a contract between the two authorities, such as a parish council renewing its lease on a building owned by a district council. In this case, a member of both bodies could not participate in negotiations over the lease renewal. He or she would clearly have a conflict between seeking the highest possible rent for the district council and the lowest rent for the parish council.

SLCC — When complaints are not investigated

Concern has been expressed that members may assume, when we decide not to investigate a complaint, that we are condoning the alleged behaviour.

This — and a concern about the breakdown in relations that can occur between the clerk and individual councillors — were two issues that were highlighted at a meeting of senior Standards Board officers and regional advisers from the Society of Local Council Clerks (SLCC) in early April.

The SLCC said that sometimes such a breakdown in relations can amount to bullying, and that when allegations are not referred at the initial stage, it can leave the clerk in a difficult position.

However, the Standards Board said that they are often hampered by a lack of information and evidence.

"We can only assess a complaint on the basis of the information provided," said Standards Board Chief Executive, David Prince.

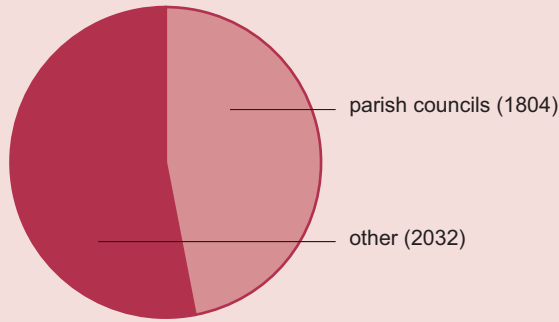
"The complainant does not have to prove their complaint at that initial stage. But they do need to

Parish and town council referral and investigation statistics

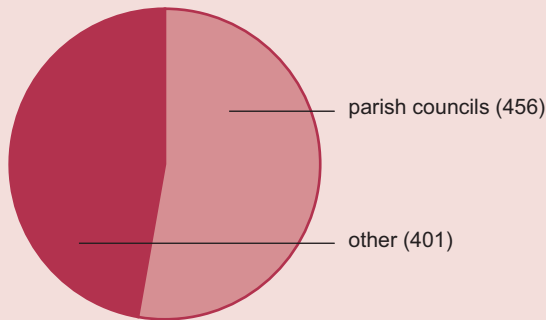
The following charts compare the parish experience with that of local government as a whole, for the period 1 April 2005 to 31 March 2006.

Key parish councils other

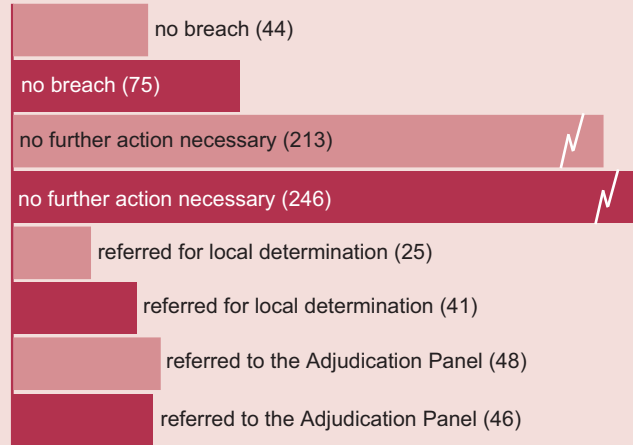
Number of allegations received (total: 3836)



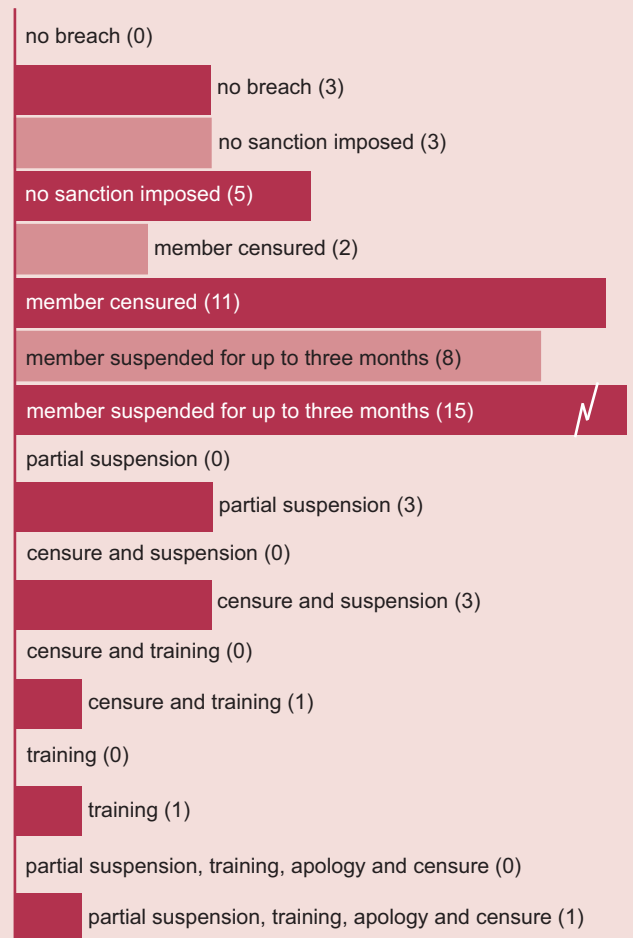
Number of allegations referred for investigation (total: 857)



Ethical standards officers' final findings



Standards committee determinations in cases that have been heard



provide us with enough information so that we can reach an informed decision as to whether there may have been a breach of the Code."

Officers went on to explain that even if it is considered that there may have been a breach, in order to justify an investigation, it is the referrals officer's role to decide whether the alleged conduct

would be likely to attract a sanction at a standards committee or Adjudication Panel for England hearing.

It was also pointed out that just because a complaint is made to the Standards Board, this does not affect the complainant's right to seek other legal solutions.

Directions — a useful problem solver

Directions continue to be increasingly used at the local level to help resolve disputes.

The powers derive from regulation 5 of the *Local Authorities (Code of Conduct) (Local Determination) Regulations 2003* as amended by the *Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004*.

This regulation enables ethical standards officers to direct monitoring officers to take action other than investigation to resolve local problems, such as reviewing procedures to make them more robust, arranging training and guidance, and getting councillors to sit down and work out their problems together. In each case, the ethical standards officer will work closely with the monitoring officer to decide whether or not it is appropriate to issue a direction.

A case in point

Over a period of time, we have received a number of allegations about a parish council in Suffolk that seemed to demonstrate a lack of understanding about the Code's principles. And this led to disagreements and poor working relations.

The initial allegations were investigated locally and heard by the local standards committee, and it made a number of recommendations that included training for all councillors.

In the light of further similar allegations, the ethical standards officer issued a direction to the monitoring officer of Mid Suffolk District Council. The monitoring officer was directed to organise training and guidance to enable the parish councillors to adopt best practice when conducting their parish council meetings, with particular reference to registration and declaration of interests and the conduct of meetings.

The monitoring officer reported back to the ethical standards officer stating that all councillors had undertaken the training successfully and that the assistance of the Suffolk Association of Local Councils and the clerk of the parish council in the training arrangements had been invaluable.

Other directions

Ethical standards officers have issued several other directions that are currently pending. In each instance, the allegations and their context suggested a lack of understanding of council procedures and/or personal conflict amongst members.

In these circumstances, the ethical standards officers considered that a direction should be issued

to try to address the root problems with an eye to improving the functioning of the council, as this would be in the interests of both the public and the members themselves. The nature of the directions varied, but they generally focused on training, mentoring and mediation for members and clerks.

Some of us have moved

As you probably know, the government has a policy of relocating central government jobs to the regions. So, in line with that policy, we started the first phase of our relocation out of London this month.

It began with our Policy and Guidance team, led by Paul Hoey, which started work in Manchester from 19 June. Other parts of the organisation are scheduled to move there in 2007.

Staying in touch

The Policy and Guidance team has moved into temporary offices while we look for a permanent site for the whole organisation. But none of this should cause you any inconvenience.

You will still be able to contact the Policy and Guidance team. Just use the existing telephone numbers, as they will be automatically diverted to Manchester. And you can still send your post to the London office where staff will ensure it is delivered on to the team.

We aim to ensure that disruption to enquiries is kept to a minimum. But please bear with us if some take slightly longer to answer than normal during the second half of June.

Contacts and more information

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

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

More information

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

www.standardsboard.co.uk