

I attended the Annual Assembly on Monday 12 October 2009. In addition to the two sessions described in more detail below, I also attended the *Station of the nation* opening address and *The big debate: The local standards framework – force for good or necessary evil?*, both of which have been described both other attendees.

Local Assessment: sharing lessons learnt (Monitoring Officers) – Discussion Forum

Mark Hynes, Director of Legal and Democratic Services, London Borough of Lambeth and by David Wilcock, Head of People and Law, Burnley Borough Council, hosted the discussion forum. Mr Hynes explained that Lambeth Borough Council's Standards Committee included the whips of the Council's three main political groups, and six independent members and was focused on member training, particularly public speaking and chairing skills to ensure that meetings ran smoothly and to minimise situations from which allegations of breaches could occur. Mr Hynes, while describing his role and the work of his Standards Committee, said that he advised members to avoid using their own quotations when making statements in political literature, especially during election campaigns, to avoid trouble in the future, recommending instead the use of non-attributable comments, e.g., "It is said that..." rather than "I believe that...". It wasn't made sufficiently clear whether this referred to avoiding statements that could lead to accusations of pre-determination (in which case not a Code issue), or to avoiding statements about other parties / members.

The main issues highlighted by the authorities in attendance were:

1. Lack of guidance for the Monitoring Officer and inconsistent advice from Standards for England on informing the subject member when a complaint had been received:
 - South Cambridgeshire's decision to invite members to tell the Monitoring Officer of their notification preferences upon receipt of a complaint was met with interest and several other authorities thought that they would like to follow suit, as it placed the onus on the elected member, rather than the Monitoring Officer, to decide when they want to be informed;
 - Guidance on this specific issue was still awaited after more than a year.

2. The local assessment process, although an improvement over the previous system, was overly bureaucratic and paper-heavy, effectively cutting off the opportunity for informal resolution or mediation. There needed to be clear guidance / legislation setting out the degree to which the Monitoring Officer could use his / her discretion to become involved and try to resolve complaints before they enter the formal standards framework:
 - It was recommended that authorities have a Deputy Monitoring Officer to help avoid conflicts of interest;
 - Lambeth Borough Council's Monitoring Officer worked informally with the whips to deal with complaints without recourse to the formal standards process – this was done with support from the political groups to avoid the time, cost and effort of the formal process – I was not the only attendee who queried this as, although it might be preferable to deal with complaints informally, current legislation requires that written complaints be assessed by the Standards Committee and the Monitoring Officer could find himself / herself unfairly accused of interference when he / she was seeking only for a pragmatic solution.

3. A controversial subject was the possible expansion of the Monitoring Officer's discretionary powers to dismiss vexatious complaints, similar to the powers of the Local Government Ombudsman and the Information Commissioner, as any legislation allowing this provision must be explicit in its definition of 'vexatious'. One authority, whose Monitoring Officer was in my discussion group, had received over 200 complaints in 2008-09, almost all from the same source and said that such powers would be welcomed, but must also be used sparingly to ensure that no one was barred from making a valid complaint, even if they had made numerous vexatious complaints in the past.
4. Dealing with politically motivated complaints and information leaks from those involved in cases.
5. Getting complainants to complete a form or to set out clearly which aspects of the Code they were alleging had been breached:
 - South Cambridgeshire's revised complaint form, including tick boxes setting out the various paragraphs of the Code of Conduct, was commended as an excellent idea;
 - It was often difficult for officers to manage the information received from a complainant to ensure that the allegation was clear, as some allegations were received without any supporting evidence while others contained hundreds of pages of appendices, few of which ultimately were relevant to the allegation;
 - Again, South Cambridgeshire was commended for providing a covering report to the assessment panel;
 - It was suggested that complaint forms include the question "What outcome do you want?" to assist the Assessment Panel in deliberations about taking other action;
 - Should use of a complaint form be mandatory?
6. There was a lack of public understanding of the difference between a member's private conduct and conduct in a public capacity, and often a lack of understanding of the assessment process.
7. Difficulty scheduling assessment panel meetings within the time limit. Many authorities have standing weekly or monthly meetings scheduled, then cancelled if not required.
8. Publication of the assessment panel's decisions, especially of those of 'no further action', which must be made available for public inspection even though the member involved had not been found in breach of the Code. Most authorities (including South Cambridgeshire) kept their register available at the Council offices for inspection upon request. Not one authority present made their assessment panel decision notices available on-line.
9. Resource implications:
 - The Local Government and Housing Act 1989 allowed the Monitoring Officer the resources necessary to fulfil his / her role, although at that time the role did not include the standards function;
 - Some authorities were considering asking parish councils for a contribution, especially those for which parish councillors engaged in tit-for-tat complaints formed the majority of allegations received;
 - Authorities which published the average cost to the Council of assessments, investigations and hearings had found a dramatic reduction in the number of member-member complaints.

Managing Investigations with Confidence – Workshop

I found the Final Programme's description of this workshop misleading, as I – and many other attendees – expected that it would be about conducting investigations internally, when it was instead about how to appoint external investigators. The main speaker was Nicole Jackson, Assistant Chief Executive (Corporate Governance), Leeds City Council, who spoke at length about several high-profile cases at that authority and the difficulties encountered when they appointed lawyers from city firms to undertake the investigations. In brief, the investigations were expensive, time-consuming, and hampered by the lawyers' lack of understanding of standards legislation and of local government in general. This prompted Leeds City Council to produce a handbook, to be signed off by the authority and by any external investigator at the start of the process, setting out mutually agreed timescales, progress updates, format and presentation requirements for the draft and final reports, and expected resource implications.

Mentioned briefly were the following two points:

1. How to determine who will do the investigation:
 - Balancing the cost of appointing an external investigator against the benefit of using a neutral organisation;
 - An internal investigator might be known and trusted by the parties involved, but could also have a conflict of interests;
 - Parties might prefer an external investigator who is seen as neutral;
 - Officers from neighbouring authorities usually have some local knowledge, but would be less likely to be conflicted

2. Difficulties faced by investigators:
 - Knowledge of local government is very different from business knowledge;
 - After the outcome is known, the aggrieved party might try to disparage the professional reputation of the investigator;
 - The investigator does not have the powers to compel parties or witnesses to attend interviews or participate in the investigation;
 - Either an internal investigator, as an employee of the authority, or an external investigator being paid by the authority could be accused of bias in favour of their employer / client.

Unfortunately, the presentation at this workshop was more about the details of the complaints made to Leeds City Council and the problems experienced with their external investigators, and the actual content of the handbook was not described in any great detail, nor were copies made available. As Ms Jackson's presentation overran considerably, there was little time left for the other speakers, including the Ethical Standards Officer from Standards for England, whose views on internal versus external investigations would have been interesting.