

The Committee on Standards in Public Life needs reform if it is to fulfil its important role properly in the future

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By Democratic Audit UK

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*If the approach to public integrity taken by local government is anything to go by, the Committee on Standards in Public Life is no substitute for the Standards Board or the Audit Commission in terms of strategy or scrutiny. **Alan Doig** suggests that now is the time to consider another approach.*



John Poulson's Leeds International Swimming Pool (Credit: Stanley Walker via Wikimedia Commons)

Let's have a little history first. In 1974, in the midst of the various trials involving architect John Poulson and his bribery network, the Prime Minister's Committee on Local Government Rules of Conduct was making some commonsense comments. First, public life required 'a standard of its own' while those entering public office for the first time 'must be made aware of this from the outset'. Second, local government had two responsibilities: 'keep its own house in order and enable others to see whether it is doing so'. In practice, how this was handled by the Committee and the later Commission on Standards in Public Life was less than successful – essentially a code to sit alongside longstanding requirements on standing orders, the scheme of conditions of service, registers and disclosure of interests. This, according to various pieces of contemporary academic research, had little or no effect other than, to quote one council, 'we just have to obey the law'.

Things began to change when the Audit Commission and District Audit began publishing fraud and corruption prevention and investigation manuals, instituted data collection and analysis (including the National Fraud Initiative), reviewed policies and procedures, used Public Interest Reports to highlight specific cases of misconduct and, anticipating trends such as its Probity in Partnerships work, proactively set out guidance and standards. The work was supplemented when a Standards Board was inserted into the proposals of the 1997 report of the Committee on Standards in Public Life for another code, standards committees, and adjudication panels. The reason for this, as a senior official summarised the attitude of the incoming Labour government, was because the government didn't believe that some local councils could be relied on to police themselves and that it didn't want 'another Doncaster' (the Labour-run council at the beginnings of planning, contracts and expenses investigations, triggered off by District

Audit concerns).

Now the Board and Commission (and with it, District Audit) have gone [see Dem Audit blog 10 March 2014; 29 April 2014], with the ethical framework provided by the 2011 Localism Act. Of course the Committee expressed little regret at the departure of the former although somewhat alarmed over the absence of alternative arrangements with the abolition of the latter. Nevertheless their demise and the focus of the Act must have seemed to reflect the Committee's belief that, to quote from its 2005 report, 'only by local ownership and involvement can issues of ethical organisational culture be properly addressed and the overall regulatory framework for standards in local government made proportionate and strategic'.

The Act has a section on standards. It seems relatively simple if vague; councils must promote and maintain high standards of conduct, although the Act doesn't say how. The Act requires councils to have a code which, however and 'when viewed as a whole', should be 'consistent with' the Nolan Principles (presumably the originals, and not the Committee on Standards in Public Life's later revisions). Councils have to have 'arrangements' to investigate breaches and decide what to do; neither the 'arrangements' and possible sanctions are legislated for.

The Act also requires the appointment of an 'independent person' whose only mandatory responsibility is to have their views sought and taken into account – and no more than that – before a council makes its decision on an allegation that it has decided to investigate; decisions on whether to investigate still lie with the council. Councils have to have procedures for the registration and disclosure of financial and what it calls 'interests other than pecuniary interests'. The Act doesn't define either, although it indicates who may be included within the former, such as a spouse's pecuniary interests; subsequent Secretary of State regulations provide the detail for pecuniary interests. Failure to register and declare pecuniary interests, or to be economical with the truth in so doing, are criminal offences.

These various legislative requirements are essentially in the view of the government at that time the components of a compliance framework; no attention was given to 'ethical organisational culture', how to ensure its complementarity with the framework, and how to achieve it.

Still, so far so good, but what does this mean in practice? Well, thanks to the internet and an increasing emphasis on transparency and information (and finally delivering recommendation 29(ii) of the 1974 Prime Minister's Committee on Local Government Rules of Conduct), it has been possible to take a preliminary assessment of how the picture now looks in the 14 councils and 3 police forces that comprise the North-East region. Some interesting initial findings emerge, not only about the efficacy of these self-regulatory compliance arrangements but also the illusive 'ethical organisational culture'.

First, none of the three police forces have received any allegation or report of any breach of the criminal requirements on financial interests. In fact two of them state that the offence in question is not a 'Notifiable Offence'; i.e., it is not an offence for which, if reported, the force is under an obligation to record. As one force responded, 'this is not something that the force would record... contact the Local Authority you are interested in'. No council reported any allegation being made to any of the three forces.

Second, all councils now have detailed and on-line procedures and policies on standards, complaints and investigations into allegations. All have codes but what comprises the code varies from council to council. Most offer an identikit Code where the emphasis is on generic issues of respect and disrepute (and the link to the Principles is invariably offered as 'consistent' with them but not, as a number replied, 'part of this Code'). Although one council specifically uses the Principles with three additional clauses as its Code, the majority append the original Principles to their Code.

These variations of course cloud any quantitative information and its analysis. Apart from the different periods over which data is collated, the average number of allegations per council seems to be about 15 a year but behind this figure is a spectrum from one council that reports no allegations over the three years to one which has received over

40 a year. A number of councils don't record to which part of the Code the allegation relates and, of the majority who do, most come from members of the public and most involve the 'respect' or 'disrepute' catch-phrases that dominate many of the codes. Some councils name the councillor; others reflect the response of one when it claimed that 'releasing details of individual complaints could lead to the identification of councillors and individuals, therefore, we refuse to release the information'. In most cases – and not all councils keep records of outcomes – the sanctions were limited to 'censure' and 'informal resolutions' (although some councils will remove members from official positions, require training or have issued 'guidance' to whole committees); most results are recorded as 'no further action'.

All councils have a committee – not always called a Standards Committee – to deal with allegations after internal inquiries and all use the independent person or, in some cases, two persons (named or not named depending on the council). Some councils say they involve the independent person(s) in the whole process; others don't and it is difficult to find any detailed information on what they actually do, and what comments they make, when and why). As committees, agendas and minutes are available on-line although they don't always carry more than limited information (although cases taken through to a formal decision are available); one council doesn't appear to have updated its entry since 2014.

Few if any carry any information, either from the committee, from internal or external audit, or from the independent person, on an ethical organisational culture, or the overall compliance framework and whether the latter is proportionate and strategic. Where a limited amount of non-specific information is to be found is in the annual governance statement (which in the case of one typical council simply claims that it promotes 'high standards of conduct and behaviour').

All councils have a register; some are organised centrally but most are provided on each individual councillors' websites. Only one council appears to have a year-on-year record of each councillor's declared interests while one council refers to an on-line register (which it doesn't appear to have on-line) and yet another requires the public to make arrangements with the council to inspect it. One council refers to the register as relating to 'disclosable pecuniary interests'; most cover pecuniary and non-pecuniary interests (one council still has a reference to the Standards Board and another has a link to the Local Government Ombudsman on its section about complaints of breaches of its Code). A handful of councils provide full details of councillors' training history, including induction and standards and refresher training; many don't.

In reviewing the approaches of North-east councils it is also worth noting that all councils also have employee codes or terms and conditions of service, a longstanding requirement, which are much more detailed and comprehensive than the arrangements for councillors (including gifts, hospitality, bribery, links with contractors and suppliers, nepotism and favouritism, outside work and, in the case of one council, membership of 'secret societies and organisations').

In summary, it is clear that the Committee on Standards in Public Life's 'snapshot survey' on councillor induction training – and what that covers and its relationship to other aspects of standards, disclosure and breaches – fails to deliver the terms of the three general recommendations in the Committee's first report: the Principles, codes (incorporating and not 'consistent with' the Principles), internal systems for maintaining standards, external scrutiny, and guidance and training, including induction training. Any survey must at the very least seek to address all three rather than pick one specific issue or component in isolation.

Here, given the Committee on Standards in Public Life's own concerns over the implications of the abolition of the Standards Board and the Audit Commission and yet its own limited proposals in its annual report in terms of future work on local government, it would be expected that any future review should have to be holistic and informed, not only covering members but also officials and, given the December 2015 report, presumably providers of services and functions, dealing not just with the compliance framework but also with the 'ethical organisational culture'. It also has to take account of issues and agendas that, anecdotally, are as relevant at local as well as at national level; these include post-resignation and post-retirement employment, lobbying and conflict of interest, planning and

development, as well as the requirements of the Fighting Fraud Locally strategy and the Prevent and Prepare components of the UK Anti-Corruption Plan.

The chasm between a snapshot survey on induction training, and what it tells us about the presence of functioning compliance frameworks or ethical organisational cultures is obvious. Even if the former is in place it is difficult to ascertain if councils have got – and are keeping – their houses in order (and thus if local ownership is in itself the right or most effective approach now and for the future). Further, given the patchwork arrangements now in existence in one part of the country and somewhat in contradiction to the impact of the transparency and access to information agenda, we are still left with an opaque and partial view of the compliance framework in practice, let alone whether it is proportionate and strategic. Whether those outside a council ‘can see whether it is doing so’ is problematic.

Of wider concern has been the longer-term failure to address at the same time the ethical organisational culture – moving from induction training into ‘a broader programme of continuing professional development and a narrative of commitment to ethical standards’ – which should have been, as the 1974 Committee (and, indeed, the Committee on Standards in Public Life itself forty years later in 2014) has recognised, initiated and sustained alongside the compliance framework ‘from the outset’.

The question that immediately springs to mind is whether the Committee on Standards in Public Life has the requisite capacity and expertise for this level of review or for taking a strategic approach to both framework and culture in the future. In my final blog I would suggest that it is not. Despite the contributions of various iterations of the Committee over the past two decades this perspective on local government may suggest that now is the time to consider – and at the least certainly debate – a different institutional configuration with different roles and responsibilities. Further, with the original focus of the Committee on Standards in Public Life in mind, it should do so not just at local level but, given the continuing evidence that the issues for which the Committee was set up in the first place still continue to resonate, also at national level.

Note: this post represents the views of the author and not those of Democratic Audit or the LSE. Please read our comments policy before posting.

Alan Doig is a Visiting Professor, Newcastle Business School, Northumbria University and Board member, Management Board, North-east Fraud Forum.

