

Ms Claire Felton
Monitoring Officer
Bromsgrove District Council
The Council House
Bromsgrove
B60 1AA

23 October 2009

Dear Claire

SBE-07165-43728

Jonathan Wigmore and I enjoyed our visit to Bromsgrove last week. It was a pleasure to meet you and your colleagues as well as Mr Burke and Councillor Cypher. Thank you for making us so welcome and inviting us to stay for lunch.

We found it useful to review the political and ethical history of the authority and to gain an appreciation of the issues facing the district. We acknowledge the improvements that have been made since you took the helm as monitoring officer. We have recognised this publicly in our annual review, and I hope this will encourage you in your efforts. These have already borne fruit in raising awareness of ethical standards as the springboard for effective community leadership, and the appointment of a full-time ethical standards officer is an impressive commitment. We congratulate you on what has been achieved.

We discussed the council meeting of 29 July 2009 and the cause and aftermath of the events of that night. We are pleased to hear that the chief executive is in touch with IDeA and that these matters are under discussion, and I do not think that Standards for England should add to your regulatory burden in this respect. If however you feel that we can help you either directly or by leveraging in appropriate external support, please let me know.

The assessment sub-committee that dealt with the 87 or so complaints appeared to be well-prepared and administered. Part of our role is sharing good practice, and I hope you would not object if we referred any other authority facing a similar challenge to you for advice. I indicated to you that Standards for England would seriously have considered accepting the cases had they been referred to us. I should also add that if you or the committee need advice and support during the course of the current investigations and any reports and hearings that may follow, this will be available in person from one of our principal investigators.

We are also mindful of the standards committee's questioning of the outcome of cases that have been sent here for investigation in the past. As ethical standards officer, Jon Wigmore explained our approach to these cases. Although resulting in findings of no breach, this does not imply that we condone the behaviour, and the final reports contained criticism. Taken singly, the evidence presented in each case was not sufficient to reach the threshold for a breach, let alone a sanction. It is true that when allegations are taken together, a pattern of behaviour might reinforce the view that a breach is disclosed. It is inevitable in this setting that interpretations of the individual paragraphs of the Code are guided by legal considerations, but I accept that there is a danger that the General Principles of Public Life can be overshadowed by these. Of course in a disciplinary context we have to prosecute the letter rather than the spirit of the Code, although it may be that there is a debate to be had about the way the principles inform this. In any case, I hope the standards committee is assured that referral of matters to Standards for England should be an option open to them in future if they consider it is the right course of action, and we are happy to discuss this with you on a case-by-case basis.

I am sorry to hear that you encountered problems entering the relevant data for the quarterly return. Colin Bardsley has spoken to Debbie Parker-Jones and explained that our system was not designed to cope with such an unprecedented number of complaints on a single occasion. Our monitoring team are working to make adjustments to the system should other authorities have the same challenge in future. The team will also provide you with dedicated support as you process the referred complaints through their course, and will be able to enter the information for you if it is emailed to us. Please let us know if you would like us to do this.

Jon has emailed you separately on the question of deferral of other action. Our legal opinion is that your committee's intentions in a referral for other action are key. Any consultation that took place before the direction to the monitoring officer would be relevant, for instance as required under reg.13(2) of the Standards Committees (England) Regulations 2008. I am sure you are conversant with our recent guidance on other action. If an assessment sub-committee believes at assessment stage that a case merits an investigation (and by which we mean - by implication - that it would merit a sanction if the allegation were to be proven as the complainant said it happened), then the guidance is clear that an investigation should occur. Rather than looking for circumstances to avoid an investigation, the investigation is merited without further ado.

Other action applies in different circumstances. We have been clear, even though a potential breach of the Code must be disclosed before it can be used, that there must be no implication of culpability or other action that looks like a sanction, for example an apology, or in certain instances singling out an individual member for training. As a rule of thumb, other action is more suitable for groups of members and tit-for-tat situations that clearly lend themselves to mediation or training. If the situation points to misconduct potentially meriting a sanction, then an investigation follows, not other action.

In other words investigation and other action are not alternatives. They are determined by the situation. Standards committees should also be aware that they may identify a potential breach of the Code in an allegation, but they may decide that it is insufficiently serious to merit further action of any kind, and offer the complainant a review. A potential breach may be trivial, tit-for-tat or politically motivated, and does not oblige the committee to take action.

We touched on the issue of consistency and divergence in decision-making by local standards committees. This gets us into the central/local debate which dominates local government, and the question of how "local" can local government be in a judicial setting such as this. But within the context of overall fairness and justice, we believe that local authorities should reflect their own area and the people who live there, and therefore there is bound to be some diversity on the ethical issues that concern them most, and which issues are the most pressing. You made representations to us on the need to have a consideration meeting in advance of a hearing. I would be glad if you could put these into writing so that we can take them into account when our guidance is next reviewed.

I am glad that we have had the opportunity to meet after many conversations with you over the years. I do hope that our dialogue with Bromsgrove will continue, and that you feel you can approach us at any time.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'John Williams', with a stylized, cursive script.

John Williams
Relationship Manager