How does localism for standards work in practice?
The practitioner's view of local standards
post Localism Act 2011

A thesis presented

by

Paul Richard Feild

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London Metropolitan University
Moorgate, London

Student ID M119647

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Thesis abstract

This thesis examines the new regime brought in by the Localism Act 2011 for promoting and maintaining standards of conduct of members of English local government. It asks how practitioners can improve their practice in the implementation of new legislation addressing the issue of standards of behaviour of locally elected politicians. The legislation was highly controversial in reversing the approach taken by the previous Labour government of a national oversight regime and addresses the issue of public confidence in local elected representatives by leaving decisions to take action regarding standards to local authorities. This is a form of localism.

The thesis adopts the methodology of action research combining two specific elements of *insider action research* and *participative action research*. This is achieved through reflective consideration of own practice and working with a regional partnership of public sector professionals charged with the responsibility of administering and applying the legislation to deal with complaints. The participants are at the most senior level of their professions and they contribute through rigorous semi structured interviews supported by public sector performance indicators. This provides robust qualitative and quantitative data which enables an original assessment of the implementation of a controversial piece of legislation. The thesis provides evidence to support the finding that the Localism Act's duty on local authorities to promote and maintain standards of conduct of members is subject to local culture and by the removal of the national oversight of the former Standards Board, Standards for England and the Audit Commission, standards can only be maintained and improved by close regard to the Committee for Standards in Public life guidance and practitioners working together as in the sample partnership applying best practice Critical Success Factors and actions to promote the raising of standards of elected members. This thesis identifies such Critical Success Factors and provides a narrative of the author's improvements in practice as the research proceeds. As action research is used as the method, it is intended that the findings of the research will be fed into further action research cycles.

Key Words. Action research, insider research, Critical Success Factors, local government, localism, standards

Dedication

I set out appreciation to my Mother Mrs Pamela Joy Feild and dedicate this paper to her.

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1   Introduction – background to the research

1.1   The research question

This research questions:

How does localism for standards work in practice?
The practitioners view of local standards post Localism Act 2011

This is examined by means of a combination of insider action research (Coghlan 2005), (Coghlan & Brannick 2010), and participative action research (Reason & Bradbury 2006),(Lewin 1951).

The research question is advanced by three objectives, that is Objective one which seeks to firstly understand the localism changes in promoting of standards, Objective two which seeks to establish what are the Critical Success Factors to delivering the *Section 27(1) Localism Act 2011* duty to promote standards, and Objective three which asks what steps should we take to build on this research to promote the Localism Act duty? These objectives lead to the following sub questions that were asked of in semi-structured interviews to practitioners:

Objective one - Understanding the localism changes in promoting of standards
1. Can you give me a short history of your working with member complaints?
2. Have you any comments on your local authority's statistics?
3. Please explain what you understand localism means and what measures you took to implement the new localism regime?
4. Do you consider the changes met the objectives?
5. Have you noticed any difference in attitudes and behaviours?

Objective two - To establish what are the Critical Success Factors to delivering *Section 27(1) Localism Act 2011* duty to promote standards?

6. What do you think are the right steps?
7. Can you give examples of how attitudes to standards have changed?
8. Do you think leadership and culture makes a difference?

Objective three – To build on this research to promote the Section 27 (1) Localism Act duty what steps should we take?

9. Should we have some national guidelines?
10. Should there be greater sanctions?
11. Any further comments or reflections?

The responses were often cross cutting and so the responses were analysed in terms of informing the objectives. The research focuses in particular on the enquiry as to how can I as a practitioner and my colleague practitioners improve local government practice to carry out the standards regime function established by the Localism Act 2011?

1.2 Why the selection of this topic for investigation

I am a legal practitioner in the public sector. My role is a governance lawyer in local government, a democratic element of the public sector where the major decisions are carried out by elected officials who together form a council. Local government is a creature of statute established by law and can only do what the law enables or requires it to do. I attend such council meetings as legal advisor on matters of legality and public administration.

A key part of my role is to participate in the implementation of new legislation. This research examines chapter seven of the Coalition Government's Localism Act 2011 (the 'Localism Act'). Chapter seven changes the law in terms of dealing with complaints about members of local authorities. The Localism Act's legislative intention is to allow greater decision making by local authorities in the determination of standards of behaviour of local politicians as opposed to being governed by decisions made by central government or national bodies such as the Local Government Ombudsman on its behalf.

Through the approach of action research utilising mixed methods, I established how better practice can be applied in terms of implementation of this specific aspect of the legislation for the professionals tasked with the responsibility of making 'arrangements'[1], as the legislation describes it, for dealing with allegations of misconduct Furthermore the research examined what steps could be taken to avoid the likelihood of a failure in keeping to high standards.

There was a need for this research as the legislation was new and had not been previously applied. As this and the following chapter of the thesis will explain, the issue of standards of politicians has come under great scrutiny for example the MPs' expenses and the effect it had on public confidence in the democratic process. The Committee for Standards in Public Life (CSPL) (CSPL 2011) reported that following the news stories on expenses the positive public response to the question, *are MPs dedicated to doing a good job?* fell by twenty percentage points (from 46 to 26 per cent). Action research has a democratic element at its heart (Reason & Bradbury 2006), so its application to the workings of elected officials and their standards of conduct was likely to be of interest to politicians and policy-makers in seeing just how well this new legislation was working in practice and to point to potential learning points for practitioners.

1.3   The politics of the Localism Act – challenge for practitioners

The practice challenge is to play a pro-active role in delivering understanding as to the implication of the legislation change to the stakeholders that will be affected by the legislation and working with them to broaden their understanding as to how their practices will be changed in terms of their roles. The extract below sets out the declared aim of the legislation:

Localism Act 2011

This Acts purpose is to shift power from central government back into the hands of individuals, communities and councils. We are committed to this because over time central government has become too big, too interfering, too controlling and too bureaucratic. This

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[1] Localism Act 2011 Section 28.(6)

has undermined local democracy and individual responsibility, and stifled innovation and enterprise within public services.

We want to see a radical shift in the balance of power and to decentralise power as far as possible. Localism isn't simply about giving power back to local government. This Government trusts people to take charge of their lives and we will push power downwards and outwards to the lowest possible level, including individuals, neighbourhoods, professionals and communities as well as local councils and other local institutions.

Stated aims of the Localism Bill

– Department for Communities and Local Government Official Web-Site

The Localism Act is a major revision of local government legislation with 241 sections and 26 schedules. Many sections have little to do with the stated aim of this paper such as for example planning enforcement and national infrastructure. I will be focusing on the measures in the Localism Act which relate to my governance practice contained in chapter seven entitled: 'Standards'. These set a new regime for accountability of the function of the member and co-opted member of an authority. A co-opted member is a member of a committee or sub-committee of an authority who is appointed without being a member of the authority[2]. I shall be solely focusing on elected members of local authorities that are either parish, district, county and unitary councils. There are other authorities such as Police and Fire authorities' covered by the Localism Act but they are outside the scope of this research.

Under the previous Labour administration a formal arrangement for dealing with complaints about councillors was established under the Local Government Act 2000 and its subsequent amendments. Complaints would be first handled at national level by the *Standards Board for England*[3], by its adjudication panel, a form of tribunal. There was a right of appeal to the courts on points of law. The regime was not popular and came under much criticism (CSPL 2005), leading to a white paper (Officer of Deputy Prime Minister, 2005) recommending revision to allow complaints to be dealt with at a local level. In 2007 legislation[4] allowed lesser cases to be dealt with by local authorities own standards committees composed of members of the local authority chaired by an independent non-elected individual. Following the 2010

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[2] Localism Act S.27(4)
[3] A "Quango" that is a quasi autonomous non-governmental organisation
[4] Local Government and Public Involvement in Health Act 2007

election the Department for Communities and Local Government (DCLG) published a press statement setting out the Coalition Government's intention to change the regime to deal with complaints against councillors quoting both the minister for Communities (*Andrew Stunell)* and the Secretary of State (*Eric Pickles*). The Minister said:

> ...The Standards Board regime ended up fuelling petty complaints and malicious vendettas. Nearly every council had investigations hanging over them - most of which would be dismissed but not before reputations were damaged and taxpayer's money was wasted. Frivolous allegations undermined local democracy and discouraged people from running for public office. That's why we are axing the unpopular and unelected standards board regime. Instead we will legislate to ensure that if a councillor is corrupt and abuses their office for personal gain they will be dealt with in the criminal courts. If a councillor behaves ineffectively or irresponsibly then it's a matter for the electorate not an unelected quango. This government is freeing councillors from central prescription and top down bureaucracy so they can get on with their job. In the future councillors must expect to be judged at the ballot box by an electorate with real access to their accounts and personal interests in a new transparent era...

DCLG Press Statement 20 September 2010

The Secretary of State *Eric Pickles* added:

> ...The standards board regime became the problem, not the solution. Unsubstantiated and petty allegations, often a storm in a teacup, damaged the reputation and standing of local government, as well as wasting taxpayers' money. But by abolishing the failed standards committees we're not letting councillors off the hook. Failure to register or declare an interest, or deliberately seeking to mislead the public about an interest, will become a criminal offence while a newly empowered Local Government Ombudsman will investigate incompetence on behalf of local people...

DCLG Press Statement 20 September 2010

When the Localism Bill was announced the idea of a new empowered ombudsman was dropped. Instead the Localism Bill would legislate so that arrangements to deal with complaints would be determined at the local authority level. The Localism Bill provided for the following measures:

- Abolition of Standards for England (previously Standards Board for England)

- A requirement for councils to promote and maintain high standards of conduct

- Creation of local codes of conduct

- The means to investigate complaints

- A requirement to register pecuniary and other interests

- The creation of a new criminal offence of failing to register relevant interests

Source – Parliamentary Briefing Note

The Localism Act as enacted, required each relevant authority to set its own code of conduct subject to it being underpinned by the *Seven Principles of Public Life.*

The Seven Principles of Public Life were established by an advisory non-departmental public body entitled *The Committee on Standards in Public Life* ('CSPL'). The CSPL was established in 1994 by the Right Honourable John Major Prime Minister following the so called *'cash for questions'* scandal. He announced:

> ...In the present atmosphere, there is public disquiet about standards of public life and I have concluded that action is imperative. I have listened carefully and have reflected upon the points raised by right hon. and hon. Gentlemen in all parts of the House in framing my recommendations.

> I have decided to establish a body with the following terms of reference:

> 'To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life

> For these purposes, public life should include Ministers, civil servants and advisers, Members of Parliament and United Kingdom Members of the European Parliament, members and senior officers of all non-departmental public bodies and of national health service bodies, non-ministerial office holders, members and other senior officers of other bodies discharging publicly funded functions and elected members and senior officers of local authorities. That is a wide-ranging list, and it is intended to be so…

The Prime Minister added:

> ...I have, therefore, decided to establish standing machinery to examine the conduct of public life and to make recommendations on how best to ensure that standards of propriety are upheld. It will contain prominent individuals who have practical experience of Parliament and public life, but also others with expertise and knowledge of our principal institutions. Lord Nolan, a Lord of Appeal in Ordinary, has accepted my invitation to chair this committee...

Hansard, Para 758 25 October 1994

Lord Nolan,[5] a senior judge set the tone for the CSPL by determining it would conduct its business in open session. The CSPL published its first report in 1995 and in its findings identified seven principles of public life which it considered were necessary to be observed by public office holders. They are known as the 'Nolan Principles'. In this decade they underwent a redrafting broadening the definition of objectivity, simplifying the definitions of honesty and broadening leadership to include challenging poor behaviour (CSPL, 2013), the seven principles are:

- **Selflessness** - Holders of public office should act solely in terms of the public interest.
- **Integrity** - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity** - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability** - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty** - Holders of public office should be truthful.

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[5] A Lord of Appeal in Ordinary is a Judge who sits in the House of Lords (now the Supreme Court) and is the most senior. Commonly referred to as a 'Law Lord'.

- **Leadership** - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

<div align="right">CSPL 2013, p.24</div>

The CSPL continues to this day to maintain a broad overseeing role. It has been openly critical of the Localism Act's councillors conduct regime in particular of its lack of independence. On 28 June 2012 the CSPL published the following press statement observing:

> The Committee has significant concerns about the inherent robustness of the new arrangements. We welcome the introduction of a mandatory requirement for local authorities to adopt a local code of conduct based on the seven principles of public life. But the CSPL has consistently argued that codes need to be supported by independent scrutiny to support internal systems for maintaining standards and by the promotion and reinforcement of standards. Guidance and training and the application of appropriate sanctions when those standards are breached are all crucial.

> The reliance of the new arrangements on relatively modest sanctions and significantly reduced independent input already carries inherent risks. These risks will be compounded unless Leaders and elected mayors implement the new arrangements in a timely and effective manner. Unless local authorities have independent persons in place and they are seen to be effective, the new system will lack credibility and is unlikely to command public confidence...

So the new localism regime removed a national arrangement and required relevant authorities[6] to establish their own local codes of conduct for elected members and co-opted members of relevant authorities and investigate complaints of their breach of the code to resolution. At this point it is necessary to explain a distinction that is if there is a breach the Localism Act requires that only a relevant council which is not a parish council can make arrangements to address the matter[7]. This can create quite a burden on district councils as there can be more than fifty parish councils in a district. The Localism Act regime is wholly reactive; that is to say it depends entirely upon complaints. Dobson (2011, p.58) commenting on the Localism Bill described the conduct regime as being

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[6] Definition found at Localism Act S.27(6)
[7] Localism Act s.28(6)

'essentially permissive' and noted that the early drafts of the Bill left it a matter of local choice whether to adopt a code of conduct or not and left it as a choice as to investigate a complaint on the basis of 'appropriateness'. This level of local decision was amended as the Bill progressed and the need for a code was made mandatory in the final enactment. However the spirit of leaving the decisions about the promotion of standards as matter of local choice means that there is no legal requirement for training or auditing or provision for an educative process for members. Relevant councils can decide for themselves what promotion of high standards means. The enforcement of good behavior and remedy for resolving bad behavior is entirely based on receiving complaints and possible sanctions that may result. Indeed the vital role of induction was recently highlighted by the CSPL (July 2014) yet there is no requirement. The CSPL reiterated their concern regarding the lack of sanctions for bad behavior (CSPL, September 2014).

1.4   Why this is an area suitable for insider action research

I am not remote from the subject matter by virtue of being a long term employee of one of the public authorities implementing the new legislation. As part of my practice as a senior governance solicitor I work directly with the legislation and have a direct role in drafting codes and procedures and carrying out investigations. I want to improve practice for myself, my team, members and co-opted members and the profession in general by carrying research within and on my practice. Thus the role of a *practitioner insider - researcher* is operating. The benefit is a sense of connection and value of being involved, but the experience narrative will require care to be taken to ensure objectivity and to set aside assumptions and preconceptions. The methodology of action research enables a researcher to improve their practice and work with fellow practitioners to improving practice and making a contribution to knowledge.

It is suggested that the implementation of the Localism Act is an appropriate area to investigate for insider action research for following reasons:

- Firstly it relates directly to practice of local government officers with greater application than just for the legal professionals, as practice improvements are likely to be of value to other professionals such as policy staff; town planners; housing advisors and community workers

- it is a new initiative which will require change across the organisation as an imperative but as its implications will require resources and with financial restraints in the public sector it poses a real challenge to those charged to implement the will of the government

- As a lawyer practitioner I will be called to advise on its implications for the organisation in for example its effect on existing practices, requirement for developing policy and change that will need to be implemented

- In accordance with the doctoral commitment to add to knowledge as a localism approach to member conduct is a fresh approach in direct contrast to the previous national top-down approach, discoveries regarding its implementation will be a tangible contribution to knowledge and as this is a new direction such research will have the originality of charting newly discovered territory

- As a practitioner working in the area of research I will be carrying out insider research which will be applied to improve my practice and establish a claim to knowledge.

- The theme of the change is about democratic accountability and widening involvement which is particularly pertinent to the democratic element of action research

- The particular subject matter is highly controversial; that is the CSPL has expressed particular concerns as to whether the new legislation will achieve its aims and objectives of dealing with complaints about standards of councillors at a local level.

- The research will be driven by the imperative that the production of knowledge will be of practical application to all local authority practitioners practising chapter seven Localism Act responsibilities and be informative to national government.

- The total local governments expenditure budget is £102.2 billion (DCLG 31 July 2013), with such large sums of public money there is an economic case that the decisions on the spending of such funds should be carried out by elected persons operating with ethical integrity and responsibility so as to maintain public confidence

1.5   The structure of the thesis

The thesis is formed of seven chapters. Chapter one presents the introduction to the research questions. Chapter two, the literature review, commences with a conceptual map of the literature review and considers the theory relevant to the investigation, development of practice within the area of investigation and understanding of action research, insider research, validity, reflection and reflexivity consideration of ethical challenges of the inside researcher working with fellow practitioners, the concept of localism, the nature of codes of conduct and the context of the implementation of the legislation which forms the changes.

Chapter three is about methodology of the research design. The method for doing so is action research. It therefore asks about improvement of my practice and contributes to the improvement of others. It sets the scene of the reason for the research; that is to develop improvements in practice in the managing of the responsibilities of *chapter seven* of the Localism Act 2011. Consideration is given to establishing the form of research, the appropriate research position paradigm and its research philosophy and why that approach is the best choice for the research. The ethics of the enquiry are considered and the steps taken to minimise risk. Chapter four is about establishing a participative action research plan to achieve the objectives of the research question to improve practice with regard to implementation of chapter seven of the localism Act. The plan follows the requirements set out in the Localism Act and tackles the issue by putting an emphasis on the duty to promote and maintain high standards as in doing so this will make a contribution to reduce the net number of complaints. The research has a time horizon of a longitudinal perspective that is to say looking backwards in time from 2010 to the moment of the introduction of the localism legislation in spring 2012 to present (2015). As the research involves more than one cycle it details the built in reflexivity and rigour.

Chapter five is about gathering the data, the pre-step and commencement of the first research cycle. It considers longitudinally from 2010 the analysis of the researchers own organisation and the participative group including qualitative data acquired as a foundation to the commencement of the qualitative data collection. Chapter six is about the qualitative data analysis and its implications of the findings to be used to move onto the next cycle of the research.

Finally chapter seven summarises the findings and addresses the contribution to knowledge and its implications with regard to practice, literature and research methodology. It considers the learning points for the researcher as a reflective practitioner in terms of how has the research improved practice for the researcher as a professional in the field of democratic public sector corporate governance. Finally it identifies potential areas for further research and enquiry.

2. Literature review

2.1 Introduction

The subject relates to implementation of new legislation researched by insider action research. To commence a literature review a conceptual map was drafted to establish a bigger picture of the relevant literature and materials which would need to be considered.

The literature review considered the theory relevant to the investigation; literature on the concept of localism, the nature of codes of conduct and the context of the implementation of the legislation which forms the changes.

The development of practice within the area of investigation and understanding of action research, insider research, validity, reflection and reflexivity continues in the next chapter.

Conceptual map of literature review

How can I / we improve practice in the implementation ofChapter Seven of the Localism Act

Researchers area of practice

governance and Localism Act

Local government politics and management

localism organisational values and culture

officers and politicians

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~ **Chapter 3** ~~~~~~~~~~~~~~~~~~~~~~~~~~~~

action research definitions

models and styles of action research

what school of action research will fit with objectives?

living theories action research

participative action research

insider action research

Action research values democracy equalities

Action research specific ethical considerations of insider practice

Ethical considerations

Validity & Reflextivity

Fig. 2.1 Research literature Conceptual map

2.2   The researcher's area of practice of Governance

The literature review addresses the researcher-practitioner's environment regarding the concept of localism, governance, management and local government politics and accountability. I will then consider the specific application of action research as a means of working to implement the governance aspect of the Localism Act.

Localism and Governance

Briffault (1990) professor of law at Columbia University in a substantial paper examined localism in the United States. He indentifies that the concept of localism is formed in terms of the relationship between the national government and local government,

> The scholarly proponents of greater local power - what I will call "localism" - make their case in terms of economic efficiency, education for public life and popular political empowerment -- a striking harmonization of the otherwise divergent values of the free market, civic republicanism and critical legal studies. The law of state-local relations, however, is more complex than the dominant account suggests. The insistence on local legal powerlessness reflects a lack of understanding of the scope of local legal authority. Most local governments in this country are far from legally powerless. Many enjoy considerable autonomy over matters of local concern.
>
> Briffault (1990, p.1)

The UK's Localism Act approach as outlined in the quotes of the ministers follows Briffault's observation that localism means autonomy of matters of local concern and that includes the probity and ethical conduct of local politicians. Leach and Pratchett (2005) identified a New Labour concept of 'new localism'.

They quote the Home Office minister Hazel Blears,

> Local government is not the only force that affects our lives Companies do. Railways do. There ought to be lots of different centres of democracy. I don't see local government as the monopoly of democratic power in a community
>
> Leach and Pratchett (2005, p. 328)

Grover (2012) argues that localism is conceptually complex. He cites Hodgson and Spours (2012) recent work funded by the Economic and Social Research Council and the Nuffield Foundation. Grover (2012, pp 352-3) describes three versions of localism – firstly the 'centrally managed' a 1997-2010 Labour concept aided by inspection regimes, national initiatives and performance measure and targets, secondly the 'laissez-faire' a Coalition government response that sees localism to 'revitalise democracy and strengthen community life' and a reduced role for the state. Finally there is the third type of localism, 'democratic localism' which seeks to achieve a balance between (Hodgson and Spours (2012, pp 9-10), the various levels of elected government local and national with popular participation, promotion of public value and social partners.

The first use of a formal governance expectation of local government politicians can be located in the 1990s with a number of themes coming together, that is the belief in private sector management and commercial pressures should be applied to the public sector[8], plus a politics which positioned a value on 'community' or 'communitarianism'. This approach acquired a label (Giddens 2000) of the '*Third Way'* and was strongly associated with the Clinton and Blair leaderships. The White Paper *Strong Local Leadership – Quality Public Services* (Cmnd 5237, 2001) used the language of the market and the introduction by Blair sets the scene:

> ...People therefore expect a great deal from their council. And those expectations are rising. To meet them, councils have constantly to seek new and more effective ways to deliver customer-focused services and lead their communities. The proposals in this white paper will provide a framework in which all can do so, through the application of the Government's four principles of public services reform:

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[8] often described as New Public Management

A **national framework of standards and accountability** for the delivery of high quality services and effective community leadership

Within this framework, **devolution to local councils to encourage diversity and creativity**, giving them the freedom they need to respond to and meet their communities' needs.

Building local capacity in recognition of the need for **flexibility at the front-line** to exploit the opportunities we are opening up, and deliver the improved services and effective leadership we all want to see.

And more **choice for customers**, with access to an alternative supplier where performance falls below acceptable standards...

<div align="right">Foreword Blair p.4</div>

In this extract the theme of the community as a consumer/ customer where their encounter with the state is a 'front-line', a metaphor of confrontation or at best at the shopping counter. The Government's concept of community leadership pictured the role as if they were managers in a supermarket. Hartley (2002) observes that local authorities are no longer in a financial or legal position to provide a Keynesian redistributive role and instead a greater reliance is placed on the private and not-for-profit sector as an alternative means of delivering services. This change in role creates a serious challenge for elected members. Their role is to act as democratically appointed officials of local government but their collective body has been set a task to deliver services to customers. The leadership role was set too. It was about collecting together other agents of the state, particularly: the police, the health services and other publicly funded and not-for-profit agencies through local strategic partnerships. As a result the police in principle a non-political organisation became deeply involved in politics as the *Crime and Disorder Act 1998* obliged councils and the police to work together to tackle crime.

Martin suggests the four most common activities of elected members (Martin 1997, p.537) are:

- *Grass roots communities*

- *Setting strategic direction for the local authority and services*
- *Partnerships with other bodies*
- *Voicing the needs of the community at nation, European areas*

While there is similarity with the partnerships, the Blair direction was explicitly about serving customers. The capabilities to take on this role without training and practice meant that the power transferred from elected members to employed officials. Lloyd-Williams (2011) utilising an insider analysis as a senior manager, proposed a thesis of the increased domination role of the appointed elite officials and that due to their agency and structure, power has moved from a more traditional participatory-consultative arrangement of elected councillors, elite officials and local party politics. The observations of Giddens (1984) are very pertinent in that the change in structure has very much redistributed the roles but the complexity generated means that it is difficult to 'keep a coherent narrative going' (Giddens 1991, p.54). Martin (1997, p.543) quotes Eddison et al. (1978):

> 'the Councillor should be given the necessary support to allow him to comprehend what is going on around him and develop his abilities in coping with his[9] role'

Coaffee and Johnson (2005) argued that the Third Way led into localism with the development of a strong civil society and the local government taking on a role of *'enabler'* (Coaffee & Johnson 2005, p.165). Dereli (2011) argued that a new label of *'governance'* is distinct from government. Leach and Perch-Smith (2001) suggested the role had shifted towards a private sector performance management outlook on the services which were provided by private suppliers and out-sourced providers. This structure is essentially about service organisations. Powell and Hewitt (2002, p.119) observed: 'the organisational change is from unresponsive paternalistic and leaden bureaucracies to the customer driven flexible quality orientated and responsive organisations of the future'.

The problem is that while the rhetoric is about the '*local*', the methods to deal with local issues are heavily prescribed. Coaffee and Johnson, (2005, p.174) further argued that the Third Way's '*local freedom*' was more about a place where there is

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[9] Note assumption: the councillor is male!

an '*institutional void and ambiguity*'. Not that the Third Way does not have critics. By the 'commoditisation of services' Dereli (2011) argued that it led to increased private involvement and because such arrangements are regulated by contracts it removes the ability for councillors to get involved. As a result governance of areas of service is only local in the sense of being local contracts; the councillor's role would be as an advocate for customer services rather than political change. It therefore follows they become at a local level expected to take up the role of agent for the organisation but also agent for the community. Action research can help to empower the councillor to take the role on and empower the community so they can directly address the organisation in terms of tailoring the services to what they actually need.

Localism and Culture

Schein (2004, p.2) proposes that culture defines leadership. With an organisation the group will set the culture and he suggests that as long as that culture is successful it is unlikely to change. This culture is built on *assumptions*, *values* and *artefacts* (Schein 1985).

Hofstede et al (Hofstede et al 1990, p 286) argue that organisational culture is socially constructed. A representation in terms of an onion is used (Hofstede et al 1990, p 291). At the heart of the onion of organisational culture is the *'values'* of the organisation, followed by a concentric ring of '*heroes*', then a ring of '*rituals*' and finally an outside of 'symbols' all interlinked by practices.

Their literature argues that the organisational culture manifests itself in how the organisation responds to events either internally or externally. Schrader, Tears and Jordan (2004, p.493), addressing the issue of organisational culture and change in the public sector, citing Gordon (1991), observe that an organisations culture is a product of it successfully adapting to the environment though resisting change, and furthermore that the sector in which an organisation operates will have similar cultures (Gordon 1991). This means that without environmental changes or directed intervention a culture is likely to be resistant to change. Thus a localism agenda which seeks to makes changes in terms of standards as *values* nationally but in a local context is going to face a challenge

of wanting to retain a local flavour but wanting national standards to be implemented[10] as the values that is to say it set two opposing objectives of wanting authorities to adopt national values but being locally agreed.

This contradiction means that a leader carrying out the localism agenda for standards will be trying to change organisational culture values not because the organisation or group wants to do so, but because the external force requires it. However as there is no legally prescribed sanction from the external force for an errant councillor other than their own peers odium, the group could metaphorically shrug their shoulders and say our brand of localism permits this behaviour.

Of course caution needs to be applied with organisational culture literature as the use of the term *values* by Schein, Hofsteade or the *competing values model* (Cameron, Quinn, and DeGraff & Thakor 2006). Cameron et al focused on a form of values in terms freedom to act versus control and internal and outwards approaches rather than the ethical values of the *Nolan principles*. Esteve, Grau and Valle (2013) in a recent paper addresses the issue of public sector values in terms of *standards*. They find there is a lack of consensus for a definition of a 'value' and opt for Ravlin's definition (Ravlin 1995) that a value is, ' a persons internalised belief about how he or she should behave [at work]'.

It can be seen that to attempt to change an organisational value faces the difficulty of forcing a change rather than the organisation changing as a response to internal or external pressures. In this research the organisation is the body of councillors. They do not change their values to align to Nolan principles as a response to the external legal framework; they have to change because the law requires it of them. It leads to a possibility that the actual values which the councillors subscribe to, may still remain cloaked by a veneer of a superficial ritual of signing up to Nolan (Holfsteade et al 1990).

2.3   The specific location of the research – the Localism Act

Prior to the Localism Act the framework for managing complaints was heavily prescribed by legislation. Doig and Skelcher (2001) provide a source for the history which I set out in a time line table 2.1 below:

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[10] The answer to this contradiction is the requirement for a locally agreed code of conduct, but as Nolan's seven principles are mandatory the local code can only be add-on to Nolan.

Date	Initiative	Comment
1974	Prime Ministers Committee on Local Government Rules of Conduct (Radcliffe-Maud Committee)	Provoked by corruption of architect John Poulson and T Dan-Smith. The Committee expressed concern as to local authorities exposure to risk from corruption
1975	National Code of Local Government Conduct	
1976	Royal Commission on Standards of Conduct in Public Life	(the Salmon Commission)
1986	Committee of Inquiry into the Conduct of Local Authority Business (Widdicombe Committee)	The Committees was tasked to inquire into practices and procedures governing the conduct of local authority business , with particular reference to: the rights and responsibilities of elected members; the respective roles of elected members and officers and political spending[11]
1994	CSPL CSPL (Nolan Committee)	Cash for questions and activities of Mohammad Al Fayed (Doig, 2006)
1995	CSPL Publish Seven Principle of Public Life	Known as the Nolan Principles
2000	Local Government Act	Established Standards Board and standards committees for local authorities chaired by independent member introduce a model code of conduct
2007	Local Government and Public Involvement In Health Act	Changes title of Standards Board to Standards for England allows Standards Committee to hear complaints amended code of conduct
2011	Localism Act	Abolishes national Code of Conduct and Standards for England

Table 2.1 Code of Conduct timeline

Doig and Skecher (2001, p.89) considered the early attempts to instil governance by voluntary processes were ineffective with little evidence of any local authority initiative and response to local conditions. Doig and Skecher (2001, p.90) argued that change did not occur until Widdicombe which was given the brief to look into the corruption of local government by politicisation and use of public funds for partisan purposes[12]. They describe the outcome of the inquiry as follows:

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[11] These terms of reference, together with the appointment of D Widdicombe QC as chairman of the committee, were announced in the House of Commons by the Secretary of State for the Environment on 6 February 1985.

[12] For example the Greater London Council's campaigning against its abolition

The Widdicombe inquiry turned out to be the basis for a massive piece of social research that recognised the validity of politics in local council activity and, in so doing, rejected most of the government's concerns (which in turn led the government to ignore many of its findings). However, the report did lead to the creation of the statutory role of Monitoring Officer, a senior officer (often, but not always, the chief executive) whose duty has been to ensure the legality of his or her council's actions. Nevertheless, it would appear that chief executives did not see probity or its policing as a core function (Audit Commission 1988; Morphet, 1993), and for the majority it was a function that considered either not essential or delegatable (Norton 1991). The Committee thought that the Code should have greater significance (but not driven by statute)

Doig and Skecher (2001, p.91)

However it was the CSPL in its third report that provided the impetus for change (Doig 2006, pp. 460-1) proposing a Code of Conduct, local standards committees with protection of officers and training and openness.

The initial regime was established by the Local Government Act 2000. It established a requirement of mandatory standards committees for principal authorities though the actual management of complaints would be dealt with by a national organisation. Complaints against Members were managed according to Statutory Instruments and guidance from a statutory body namely Standards Board for England.

The arrangements were not perceived as successful. In January 2005 the CSPL in their 10th report (2005) to Parliament reviewed the working of the Local Government Act 2000 and found that the Standards Board for England had only started taking complaints in 2002 and the secondary legislation to bring it into effect was not complete till 2004. Its investigation found that 55% of all complaints and half of those investigated in 2003-4 related to parish councils yet they accounted for less than one percent of all local government spending. The 10th report observed that the process of dealing with complaints about councillor misconduct had become bureaucratic and bogged down with trivial complaints and recommended further legislative changes. The Government accepted the comments and made changes by the Local Government and Public Involvement in Health Act 2007. The legislation came to effect in May 2008 and re-titled

the '*Standards Board for England*' to '*Standards for England*'. The responsibility for assessment was passed to the local authority's standards committees[13]. Appeals could be made from standards committees to the First Tier Tribunal. Standards committees were obliged to have independent Chairs that were not elected councillors. This change effectively established local management of complaints. The standards committees had the power to suspend members. Macaulay and Lawton (2006) in a paper considered the impact of the CSLP's third and tenth reports. They found that

> The CLSP original report has had a minimal impact on standards of conduct in local government in fundamental terms of altering standards of behaviour and raising public perception of local government. By the Committees own admission local government standards remain at the same high level as they were in 1997 and perhaps more worryingly, public distrust of local government remains at the similarly high level as that it was nearly a decade ago. Yet it is equally clear that in terms of subsequent policy and the creation of a new ethical framework the Committees impact has been significant.
>
> (Macaulay and Lawton, 2006, p. 486)

Macaulay and Lawton (2006, p.487), observed a tension between local and central government. Their explanation was that the Local Government Act 2000 had seen the issue of local government standards as a matter of rules, regulations, policing and enforcement. Though little had been done with regard to ethics. They found that Monitoring Officers had been broadly supportive of the regime and the Standards Board for England (Macaulay and Lawton 2006, p.483) and was generally perceived in a good light.

However the issue of complaints had become very political.
The incoming coalition government made an early commitment to abolish *Standards for England* which it described in a press release as being:

> ...bureaucratic' [and]: 'which ministers believe had become a system of nuisance complaints and petty, sometimes malicious allegations of councillor misconduct that sapped public confidence in local democracy...

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[13] Section 185 of the Local Government and Public Involvement in Health Act 2007 provided alternative courses of action open to a councils standards committee where an allegation against an elected member is received; that is: to refer the allegation to the authority's statutory monitoring officer for consideration; to refer the allegation to Standards for England; or to take no action in respect of the complaint

New Rules to ensure Town Hall Transparency,
Department of Communities and Local Government
Press Release 28 June 2012

The Localism Act abolished the Standards for England and instead provided that arrangements should be made locally to consider complaints. It also removed the right of appeal of a member to an independent tribunal presided over by a judge[14]. As to setting specific requirements for standards the Localism Act is sparse on detail, consisting simply of a duty to promote and maintain high standards of conduct including a local code of conduct (Section 27) and that a non parish council shall make arrangements for allegations to be investigated and subsequently decisions be made (Section 28). In the absence of legislative clarity by means of statutory detail, the local government practitioner's professional group, the Association of Council Secretaries and Solicitors (ACSeS) sought counsel's opinion from *Clive Sheldon QC* on what penalties could be imposed in the event that a complaint against a member was upheld. He gave an opinion on the range of possible sanctions. That is:

> i. A formal letter to the councillor found to have breached the code;
> ii. Formal censure by motion;
> iii. Removal by the authority of the member from committee(s) subject to statutory and constitutional requirements;
> iv. Press release/other appropriate publicity

Sheldon QC Advice to ACSeS 11 January 2012

Paradoxically the non-elected member could be treated differently as authorities have the power to vary their terms and so could dismiss them from membership.
The new regime commenced on 1 July 2012, but in just over six months the implementation by authorities came under criticism by ministers in a debate on the new standard regime on 16 January 2013 (Hansard 16 January 2013 ref 289 WH Commencement 2.30pm). It was observed that in many places the new regime was operating in a way that did not reflect Parliament's intention in that it was said to be heavy-handed and as it were simply transplanting the old regime back in place without Standards for England. The Parliamentary Under-Secretary of State (Brandon Lewis)

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[14] Abolition of the First Tier Tribunal by Section 26 and Schedule 4

repeated his concern about vexatious and politically motivated complaints and went on to say that the complaints and standards regime as far as officers are concerned are: 'expanding and developing as an industry and changing the regime seems only to have brought that industry further in-house' (Hansard 16 January 2013 ref 307WH). The Minister went on to say: 'far too much poor advice is given, leading members to feel that they are being bullied by officers' (Hansard 16 January 2013 ref 309 WH). The debate was widely reported and later that month the ACSeS wrote an open letter in reply addressing as they saw it apparent misconceptions (ACSeS Website 24 January 2013 President to Brandon Lewis).

So the issue of localism and the implementation of the requirement to establish local arrangements has caused controversy and as the recent Parliamentary debate illustrates there is a real need to improvement of practice of the arrangements to manage complaints.

Shortly after the Westminster debate two further reports were published which highlighted further the issue of governance. The first was the fourteenth report of the Committee on Standards in Public Life (Cm 8519 January 2013) and the final report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (published on Wednesday 6 February 2013 'Francis Report').

The CSPL fourteenth report identified four key areas of concern:
- Inappropriate behaviour continues to be revealed
- Those in leadership positions in organisations concerned have yet to internalise the principles of public life fully
- There are deliberate attempts to get round codes of practice
- New situations continually arise which raise new standards issues

The Francis Report observed:

> ...a serious failure on the part of a provider Trust Board. It did not listen sufficiently to its patients and staff or ensure the correction of deficiencies brought to the Trust's attention. Above all, it failed to tackle an insidious negative culture involving a

tolerance of poor standards and a disengagement from managerial and leadership responsibilities...

Thus within a month of the Minister's observations two major reports indicated that the issue of maintenance and promotion of standards in public life continues to be a matter of major concern and that further work was necessary.

The Challenge of Localism

To recap, the Secretary of State wanted to see proportionate investigation and promotion of standards, on the other hand there was a call for change and improvement by the CSPL because the current standards were not being uniformly followed (CSPL fourteenth report). That such a schism had developed was an element of the inherent contradiction of localism which by its own definition was about local government addressing issues at a local level rather than solutions being imposed by above. It created a paradox – the Coalition Government refused to issue model guidance and directions, their reasoning being that if all the local authorities adopted the same procedures they would be undermining the whole legislative thrust:

> ...For too long, central government has hoarded and concentrated power. Trying to improve people's lives by imposing decisions, setting targets and demanding inspections from Whitehall simply doesn't work. It creates bureaucracy. It leaves no room for adaptation to reflect local circumstances or innovation to deliver services more effectively and at lower cost. And it leaves people feeling 'done to' and imposed upon - the very opposite of the sense of participation and involvement on which a healthy democracy thrives...
>
> Forward to the Introduction to the Localism Act 2011 by Rt Hon Greg Clark Minister for Decentralisation DCLG Publication November 2011

Yet unless local government were, for example, to submit their proposals for their local code of conduct and procedures for Ministerial approval (as was the process adopted for the requirement to establish Constitutions[15]),   then there is a risk of ministerial

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[15] S.37 Local Government Act 2000

condemnation at some later date, such as for example happened to a number of authorities identified in the Westminster Hall debate.

Nevertheless localism by removing the national code of conduct inevitably creates a multiplicity of different codes. As an indication of the scale of authorities which can all have their own code the Local Government Association has observed:

> ...England has 27 counties split into 201 districts, 56 unitary authorities, 37 metropolitan
> districts, 32 London boroughs plus the City of London, 31 combined fire
> and rescue authorities and 10,000 town and parish councils...

A Guide for New Councillors LGA 2014 p.12

The implication of the Localism Acts measure means that instead of there being one single national code of conduct, providing that an authority's code takes account of the Nolan Principles and interests, then the local code can take whatever form that the authority agrees and potentially each parish council could have its own individual code leading to thousands of variations.

Localism and organisational values in local government

The Localism Act heavily relies on the calling to account by means of complaints. It therefore needs a complaint to activate it. So if no one complains nothing happens. The source of the complaints will either be internal (employees and managers) or external (citizenship and stakeholders). Paullin and Haidar (2003) sought to locate the public sector management values in Victoria, Australia and found a historical system of appointment on merit and a neutrality ethic. While it was deep-rooted it had no basis in statute or regulations as in England. It is built upon the proposition that the employed officials are servants to the elected officials (members) subject to the law. Paullin and Haidar (2003) say as a result the employed officials will carry out their instructions and only if an instruction was illegal would an officer refuse to carry it out. While the managers would argue their view of the public interest they accepted the elected officials: '...should be the final arbiter of public interest...' (Paullin & Haidar 2003, p. 293).

This seems to indicate that the role of ethics played no part once elected members had made a decision. Lee (2011) observed that there is a need for officer confidence particularly when there are structural reforms required to promote an entrepreneurial spirit if poorly reported shortcomings were identified. A moral panic can be created based on rumour which will either be confirmed by evidence or refuted (Lee 2012). Furthermore Lee argued that regulators could themselves fuel concerns (as for example Standards for England was said to) and create (Lee 2011, p.197):*'.hostility towards an identifiable group of wrongdoers' .*

Lee argued that because of the press frenzy that results where there is said to be a short coming, the regulators ought only to report proven frauds and abuse (Lee 2011, p.201). Douglas et al (2012, p.28) identified the importance of 'reputation' as a consideration. Thus organisational reputation can become a value and lead to a reluctance to be open about matters until there is proof.

In the United States, Strachan (2012) argued that there needs to be cultivation of citizen watchdogs. This would be an ideal use of PAR to empower the citizenship to call the local government to account. The challenge is going to be for the organisation to bring the citizen in particularly less represented groups such as those ostracised due to racial minority belief or gender, thought with the Equality Act 2010 public sector duty[16] it is arguably a necessity.

Management and local government politics

If complaints are made about the politicians internally they will come from the management team or from other politicians, but the employee's role is to carry out the will of the politicians and accept that the members must have the last word or effectively the employees will be the politicians. This can be a fine line between a manager refusing to take an action because it is unlawful as opposed to it not being in the interests of the local authority and its community. This is a test of leadership, however the literature on public sector employed leadership has a lack of clarity as

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[16] A duty to have due regard to eliminate unlawful discrimination, promote equality of opportunity and foster good relations between people with protected characteristics and those who do not.

to what leadership competencies means (Spicker 2012). Spicker (2012) recalls attempting to list the necessary attributes of a leader was a futile exercise and was given up after 127 different attributes were identified. The relationship between the public sector leader and those being led form many definitions but in leading change there is likely to be less of a personal arrangement. The definitions are absent of ethics and standards as qualities.

Spicker (2012) describes the *New Labour* initiative as being about political leadership by politicians not by officials, so officials who were minded to take on a leadership role would be acting politically and would risk a clash with elected politicians though he noted, that the officials could fill in the gaps (Spickler 2012). Fenwick and Miller (2012) attribute the change to a belief that there was a relationship between a change in governance for greater local accountability and improved performance. However the contrary seemed to be the case with there being less scrutiny (Fenwick & Miller 2012) as the politicians were unaware or denied there was a problem.

Mintzberg (1975) found that senior management spent as much of their time with peers and persons outside their organisation as they did with their own subordinates and as a result did not always know what was going on. But as observed *supra* the expectation was that the political leaders would be making the political decisions. As a consequence the elected members while not in possession of the technical or professional know-how, are in a position of power over even very senior officials who are *'nominal leaders'* (Spicker 2012, p.41). While performance is affected by the environment, people, the type of work and objectives there is a *'public sector ethos'* of being of service to the politicians and the community in general

It is therefore difficult to hold elected leaders to account, if at all and were officers to attempt to do so they would face the accusation they have crossed the boundaries and were acting politically. Spicker points to the reluctance of Chief Executives to resign when their organisation is shown to fail. There is a disturbing side effect to the uncritical acceptance of the idea of leadership, 'its potential to justify and validate bad practice...' (Spicker 2012, p.43). Spicker concluded in a gloomy summary that there is little evidence to support the view that leadership sets a primary influence on

behaviours of most organisations, that leadership is better executed by a group or an individual or that private sector leadership principles are transferable to public service.

Local government's accountability

The literature identifies that the change of the *New Labour* era has lead to new forms of governance underpinned by local accountability, yet apart from the ballot box at elections the accountability in practice is led by the need for a person to make a complaint. This is hardly satisfactory because it needs something to go wrong for a complaint to be triggered. Furthermore it needs an individual to make the step of doing so. Under the previous Conservative and *New Labour* administrations the role of overseeing good administration was established by a national body namely the Audit Commission which had a supervising role. However in spring 2015 it was abolished by virtue of the Local Audit and Accountability Act 2014. The literature indicates that if the Localism Act 2011 is to be effective in terms of standards it will be thought the agent of getting elected Members to embrace the values in public life and live them in their practice as other forms of accountability such as officers and complaints are unlikely to create public confidence because historically the officers avoid politics and the complaints process has been undermined by trivial and partisan complaints. The picture from the literature is that any improvement in standards will need to come in terms of the politicians deciding to embrace standards and behaviours due to pressure from the community because officers are unlikely to bring complaints as they will be seen to be acting politically.

2.4   Literature published during this research

As the research was being analysed in the spring of 2014, further literature was being published by the CSPL and academics, taking a retrospective view of the previous standards regime and standards committee and also taking an opportunity to look forward to the new regime.

I commence chronologically with the CSPL. In late 2013 Lord Bew, the Chair of CSPL made a keynote speech for lawyers in local government and observed that,

> the lack of sanctions meant that success of the standards regime is entirely dependent on robust local leadership and ethical championing. This is a fragile balance and we fear those local authorities who are "good at this stuff" will continue to be while others resort to monolithic culture which have in the past had the most difficulty in dealing with issues internally
>
> (Bew 2013, p.4)

Bew's view was that it was necessary to establish an open culture in which challenge of poor behaviour is encouraged. Bew's position appears to support the research *Objective one* finding of the weakness of the Localism Act is that the requirement to make improvements operates subject to the existing culture.

Bew (Bew 15 November 2013, p.4), made a further observation at the OEDC Policy Forum that leadership behaviours were established on either:

1. Compliance based systems – that is a well designed and systematically enforced external system of rules; or
2. Integrity based - that is internally driven

However by dismantling the national body of Standards for England and the Audit Commission, the compliance means of control of behaviours has gone. This leaves the integrity based formula which we have seen is subject to local culture. The question is can an integrity based system suffice with the only effective sanction being the ballot box?

The CSPL approach to resolve the lack of compliance element is suggested to be a commitment to education by training on ethical issues and systems of independent scrutiny (Bew 15 November 2013, p.6). While this may be a prospect for the principal councils such as districts, counties and unitary councils, it is not a realistic prospect for parish councils

Lawton and Macaulay (2009), state the importance of leadership:

> *Leadership is essential.* This conclusion may seem so blindingly obvious that it barely warrants mention, but leadership is one of those organisational virtues that is constantly extolled but rarely elaborated upon. Nowhere is this more apparent than in the realm of local government, a sector which has commonly found itself being encouraged to take up a leadership role while having the forces of centralisation simultaneously act as a restraint. It was very interesting, therefore, to see that in all the cases we investigated there was a strong sense of shared leadership: from members of the standards committee itself; politicians; and leading officers.

Lawton and Macaulay (2009, p.32)

Lawton and Macaulay published further research on standards committees in late 2013. This formed part of an ongoing research project (Lawton & Macaulay 2006) and with a themed case study examination (Lawton & Macaulay 2009) looking for key contributions to practice. They identified the following practice points by theme which for ease I have assembled in the form of table 2.2. Their finding was that the standard committees varied considerably (Lawton & Macaulay 2009, p.32), 'our studies took us to standards committees that faced almost continual complaints to others that are still to face a single case'.

Lawton and Macaulay Standards Committees Case Study	
Theme	Developing Practice
Engaging leadership	• The notable practice most clearly identified in this case, therefore, is the ongoing and sustained engagement of the leadership of the authority, focussing on the triumvirate of political leadership, officer leadership and independent leadership of the committee itself. • Political support is crucial for long-term development • Committee members need to be valued by the authority
Standards Committee Organisational Learning	• A good balance of members allows for a high profile internally and externally • Standards committees can profitably apply their expertise to a wide range of authority • issues in order to continually develop the committee's own learning • Knowledge and experiences travel well from committee to committee and should be shared
Working with Parish Councils	• Need for a parish liaison officer • Face to face contact is extremely important for parish and town members • Personal relationships help develop trust • Flexibility and empathy are key virtues
Developing members	• If we don't do it who will • Sensitivity to the role of the Standards Committee within the wider authority • Commitment to training and development • Locating responsibility for self-development
Community engagement	• Engagement with the wider community is an important part of the Standards Committee role • Standards Committees, in seeking to deliver a wider remit, will face challenging issues, and will have disagreements on how to deal with them. This is normal. • Ethics and standards are at the core of the authority, not a bolt on, and are part of the vision for the community as a whole.
Recruitment and retention of Standards Committee Members	• Understand who you want to attract as an independent member • Use effective media – particularly situations vacant sections in local press • Ensure that candidates all have the fullest available information regarding the role
Training and Development of Members	• Joint training is an efficient way of covering crucial ground in a number of authorities • Joint provision can be very usefully extended to organisations other than neighbouring authorities • Working together can build trust and adds weight to what can often be viewed as an onerous task.
Joint Standards and Audit	• A joint committee requires very careful planning roles and responsibilities need to be explicitly communicated to all members • Committee members should not be overloaded with audit information
High Pressure Investigations	• In conducting the investigation in such a high profile case, the integrity of the Standards Committee and the GLA is enhanced, demonstrating that its actions are 'without fear or favour'. • By appointing an 'internal' investigator the Standards Committee retained control over the process. • The cost of the investigation may be beyond the resources of the average District Council.

Table 2.2   Lawton and Macaulay Case Studies

Lawton and Macaulay built on this work in the journal *Public Administration Review* (Lawton & Macaulay 2013), carrying out what turned out to be a fin-de-siècle assessment of standard committees by multiple case studies. They argued that standards committees were crucial in promoting local participation and enhancing good governance. By the use of additional members of the committee as well as elected councillors, the participation improved public trust (Lawton & Macaulay 2013, p.76).

Their analysis of the makeup of the standards committees was that committees evolved over time because of the input of the members of the community who sat as independents. These people became 'expert citizens' and they 'enhanced the legitimacy of representative democracy by holding local politicians to account by means other than the ballot box' (Lawton & Macaulay 2013, p.81). Furthermore the standards committees were 'generally outward looking facing and promoting participation throughout other authorities, smaller councils, schools and broader community of social media'. This intervention was able to work outside party politics. However they also went on to say that some local politicians did not like it. They commented that the effect of the Localism Act was to replace the standards committee role with a single professionalised person. Lawton and Macaulay (2013, p.82) conclude that, 'the previous arrangement of standards committees were examples of localism and the independent members and the standards committees, paved a way for refining concepts of the local good'

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The autumn of 2014 brought forward two major investigatory reports on local government. The first being the report by PricewaterhouseCoopers[17] (PwC) following intervention by the Secretary of State into concerns regarding the governance of the London Borough of Tower Hamlets(LBTH) and the second, a report by Professor Alexia Jay (2014) into the response of Rotherham Borough Council to organised child sexual exploitation. Both reports have significant implications regarding the practice challenge of standards and localism in local government and governance.

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[17] A major international accountancy firm.

The PricewaterhouseCoopers Report on Tower Hamlets

PwC were commissioned by the Secretary of State to carry out a best value[18] compliance inspection of LBTH pursuant to section 10 of the Local Government Act 1999 (as amended by the Local Audit and Accountability Act 2014). The motivation was a BBC Panorama broadcast[19] which made allegations regarding the probity of decision making with particular regard to property disposals and the payment of grants. The intervention was not welcomed by the authority and LBTH sought to resist the intervention by resorting to judicial review and not cooperating in supplying documentation (PwC 2014). LBTH efforts to resist the inspection failed and in due course PwC's report was published[20]. The key findings were that there was a lack of transparency in the awarding of grants including to organisations which were apparently not eligible under the authority's own grants criteria. PwC identified failing in governance and observed:

> To the extent that we have in the course of our Inspection identified failures to comply with the best value duty, these failures have occurred under the Authority's governance arrangements as they have existed throughout the period and continue to exist at the present time.
>
> Para 2.20 PWC 2014

PwC's conclusion was:

> in our view the current governance arrangements do not appear to be capable of preventing or responding appropriately to failures of the best value duty of the kind we have identified. This calls into question the adequacy of these governance arrangements and the extent to which they are sufficiently robust to enable the Authority to prevent or respond appropriately to other failures of a similar nature.
>
> Para 2.230 PWC 2014

This development has significant implications for localism in that intervention occurred in pursuance not in terms of a failure of the Localism Act section 27 duty to promote standards of elected members in particular with regard to the Nolan

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[18] Local government Act Section 3 (1) A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
[19] 31 March 2014
[20] 16 October 2014

principle of leadership but rather because there was a failure to deliver *best value*. The Secretary of State considered the report provided sufficient evidence to take action so as to remove powers from elected politicians at LBTH and to appoint Commissioners to exercise those powers; the Secretary of State did not take any direct action against any elected member for their failings. Nevertheless he made his view clear in Parliament stating:

Localism requires local accountability and local democracy. Municipal corruption undermines the local checks and balances that are vital in a democracy and essential in mayoral systems with their concentration of power. We cannot risk such corruption elsewhere, but it is not just about the money. The abuse of taxpayers' money and the culture of cronyism reflects a partisan community politics that seeks to trade favours and spread division on the rates. Such behaviour is to the detriment of integration and community cohesion in Tower Hamlets and in our capital city.

Hansard Column 666

and

The most important thing is for us to get into a position in which the residents of Tower Hamlets can feel confident in the mayoral system and in the functioning of their local government, which is now at best dysfunctional and at worst riddled with cronyism and corruption. I am not entirely sure that it would be appropriate for us to consider a big constitutional change. This is not about something being wrong with the system; it is about something being fundamentally wrong with the way in which the system has operated and with the people that are chosen. Should the mayor decide to resign at this point—I have no belief that he will—can I say that he would not be missed?

Hansard Column 674

and

Many of us will have experienced people on the doorstep saying, "All politicians are on the take. They are all on the make. They are all out for themselves." Many of us in this Chamber can think of our local councillors, people we have seen in politics for years, and realise that the overwhelming majority are people who simply want to put something back into their local community, to do civic service and to contribute to the value of life. The thing about what has happened in Tower Hamlets is that it besmirches even the most benign, hardest-working councillor, in even the remotest part of this country. That is why I will consider acting.

Hansard Column 675

Eric Pickles Secretary of State Hansard 4 November 2014

Following the publication of the PwC report a further minister made a comment which again highlighted the localism perspective:

> 'We do not take intervention actions lightly, but previous interventions – such as in Doncaster in 2010 – have helped tackle dysfunctional governance and restore public confidence in the integrity of councils. Localism requires transparency, probity and robust scrutiny: as Eric Pickles said in Parliament last week, "*there can be no place for rotten boroughs in 21st-century Britain*"[21] '.

<div align="right">

Lord Ahmed
Parliamentary Under Secretary of State
for Communities and Local Government
12 November 2014

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The Jay and Casey Report(s) on Rotherham Borough Council

On 21 August 2014 Professor Alexis Jay's report on child sexual exploitation in Rotherham was published. She was commissioned to do so by the independent chair of the Rotherham Safeguarding Board. Jay identified serious short fallings of the organisational culture of Rotherham Council. She concluded that it had resulted in failure to address the long term sexual exploitation of young people in Rotherham. Jay (2014, para 13.64- 69) cited examples of bullying by members including the director of safeguarding recalling that the lead member for children and young people's services when chairing a meeting allowed another officer to swear at staff which was in the director's words 'intimidating, humiliating, bullying and entirely professionally unacceptable'. Jay (2014, p 115 para13.69) concluded:

> The existence of such a culture as described above is likely to have impeded the Council from providing an effective, corporate response to such a highly sensitive social problem as child sexual exploitation.

<div align="right">

Jay (2014)

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The report received heavy media coverage. The Secretary of State responded utilising again the same best value intervention power in the Local Government Act 1999 as used in LBTH. This time a different approach was used and an investigation

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[21] Column 666 Hansard 4 November 2014

was carried out by a team led by Louise Casey CBE rather than an accountancy firm.

Casey reported in February 2015. She found a breakdown of governance. Key examples in her report were that the deputy leader had a conviction for violence (Casey 2015) and furthermore three members were facing action for non-payment of council tax (Casey 2015).

During the investigation she found an earlier corporate governance inspection of 2002 which noted a lack of information, silo thinking and lack of clear plans as to priorities and observed it was the same in 2014 (Casey 2015). She was concerned that the council did not have a clear vision and questionable priorities, she said:

> The Council has not got it priorities right. It puts resources into pursuing awards when it should be focussing on sorting out the basics...Surely this woeful position should have been the focus of leadership and management rather than window dressing
>
> (Casey 2015, p 72)

The most damming comment was in the summary,

> Overall inspectors have not been impressed with the calibre and grip of leading Members. We have reluctantly concluded they cannot be left on their own to lead the Council out of its current responsibilities
>
> (Casey 2015, p.74)

Within days of the report being published, the whole Rotherham cabinet resigned. The Secretary of State again used his powers under the Local Government Act 1999 and sent in commissioners to run defined functions of the Council.

Local Government Association (LGA) – 2015 Sector Review

The most recent activity on the issue of governance appears to have been prompted in part by the interventions in LBTH and Rotherham. It involves a consultation review

of inspection practice by the Local Government Association (LGA). The LGA[22] is the national body which represents local government. Its object is to support, promote and improve local government in England & Wales (LGA Constitution Art 2). It works with local authorities by invitation to improve their performance and carries out peer reviews also known as 'sector reviews'. These involve a panel of members and officers from other authorities led by an LGA appointed chair visiting another authority and carrying out a review of the authority which they put into a report with recommendations for improvement and reflection. They consider in their peer reviews of an authority, its:

1. Understanding of local context and priority setting
2. Financial planning and viability
3. Political and managerial leadership
4. Governance and decision-making
5. Organisational capacity.

(LGA 2015 p10)

The LGA in its consultation document expressed concern (LGA 2015) regarding the two recent interventions at LBTH and Rotherham. They observed:

> Moreover, in the past few months, there have been two high profile cases where central Government has used its inspection powers to go into a council to gather evidence which allows the Secretary of State to decide whether to formally intervene or not. This is the first time that Government has used such powers since 2008 and could signal a growing appetite to intervene. The Government has adopted a different approach to inspection in these two cases. In the case of Tower Hamlets, it commissioned PwC but in the case of Rotherham it appointed Louise Casey, a DCLG official, as the 'inspector'. The way these inspections have been carried out and the formal engagement with the council has therefore varied and there appears to be no clear or standard process in place.

(LGA 2015 p.9)

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[22] The LGA is a membership organisation for local government. It includes 351 English councils, the 22 Welsh councils via the Welsh LGA, 31 fire authorities, 10 national parks via corporate membership through ENPAA and one town council – Source LGA Website

The LGA comments identified an awareness of the vacuum created by the removal of external oversight (i.e. abolition of the Audit Commission) and the need for the local government sector to maintain high standards in practice[23]. As observed Localism is creating a challenge in that the device for upholding standards is essentially complaints driven and relates to the failings of individual councillors. The Local Government Act 1999 intervention power is directed towards lack of ability to improve due to a collective failure. Neither of the two Acts works hand in glove, in fact there is contradiction. Rather than having the power to remove a failing member, the localism position is that it is one for the ballot box, but the Local Audit and Accountability Act's thrust is saying that if there is a collective failure, then intervention will be taken and if necessary commissioner(s) appointed to take over executive functions. But the failing councillors still remain and could continue to receive their member's allowances.

2.5   Summary of this Chapter

The concept of localism has a number of competing definitions. For example Brifault in the United States described it as a form of autonomy at state level. Grover (2012), Hodgson and Spours (2012) describe three localism ideological stand points being either, centrally managed or secondly laissez faire or thirdly, a democratic localism.

The literature points to some key issues that are likely to cause friction between elected and employed officials and ultimately complaints under the code of conduct. Firstly the ambiguity of when an officer is acting in a way that maybe perceived as usurping the prerogative of the elected politician, secondly where the employed official considers that their judgement of the public interest is better than the politicians and alternatively the employed official adopts the approach that as long as it is not illegal then *public service ethos* means they shall facilitate it. If this is then fused with the organisational value of avoiding reputational damage then it could lead to officers failing to challenge behaviours until they become rooted and form part of the organisational culture, and then all the more difficult to challenge. All of these issues have the capability to lead to officers making a complaint about a Member or letting things deteriorate to a state of organisational paralysis.

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[23] It is worth noting that the LGA organised a Safeguarding Peer Review in November 2011 of Rotherham (Jay 2014, p.24) it did not appear to act as a catalyst for improvement.

Furthermore because of the fear of damage to the reputation and an insistence on facts before action is taken poor behaviour may become entrenched, because resources are not directed to establishing the necessary evidence to prove the poor behaviour. This may help to explain why the state of affairs of Tower Hamlets LBC and Rotherham Borough Council needed external intervention because of the long term failure in those instances to challenge poor elected standards by the respective organisations.

The later reports of PwC, Jay and Casey have prompted Government observations that localism requires transparency, probity and robust scrutiny. However the Localism Act possesses no measure to intervene on those grounds indeed the method of intervention introduced in 2014-5 by installing Commissioners under the Local Government Act 1999 is based upon the concern that the Secretary of State may have based upon evidence that the authority under the spotlight is failing to continuously improve in its duty to provide best value. The current localism arrangement appears post the changes wrought Local Audit and Accountability Act 2014, to be transforming into a hybrid of all three localism positions with an inherent contradiction of not being able to remove or suspend failing members but on the other hand where there is collective failure removing their power.

Chapter 3 – The research design and methodology

3.1   What this chapter is about

This chapter is about the research design and methodology. To recap the research asks
how does localism for standards work in practice?
The practitioners view of local standards post Localism Act 2011 and
How can I / we improve practice in the implementation of local investigation of complaints post Localism Act 2011?

The design for doing so is action research with mixed methods data collection. It therefore asks about improvement of my practice and contributes to the improvement of others. The use of action research is ideal for this work because it provides a method of addressing the creation of knowledge that is (Reason 2006), worthwhile for practical purposes, involves democratic participation accepts many ways of knowing and an emergent development form. I set the scene of the reason for the research; that is to develop improvements in practice in the managing of the responsibilities of chapter seven of the Localism Act 2011.

It considers development of practice within the area of investigation and understanding of action research, insider research, validity, reflection and reflexivity. Furthermore I will consider literature on the ethical challenges of the inside researcher working with fellow practitioners, the concept of localism, the nature of codes of conduct and the context of the implementation of the legislation which forms the changes.

Consideration was given to establishing the form of research, the appropriate research position paradigm and its research philosophy and why that approach was the best choice for the research. As the research involved contact with living individuals the ethics of the enquiry is discussed and steps taken to minimise risk.

3.2   Location of the research position

Hallebone and Priest (2008) illustrate the formation of a research plan. Firstly establish the research topic, secondly the research paradigm and then the methodology and implementation building in a feedback process as there may be more than one approach required.

Establish the Research topic	Research Paradigm	Methodology Implementation
How does localism for standards work in practice? *The practitioners view of local standards post Localism Act 2011.*	Interpretivism & Inductive	Action research Cycles Mixed methods Quantitative • Survey • published data Qualitative • Semi structure interviews • Reflective journal

Fig 3.1 Hallebone and Priest (2008) Research Plan

The research paradigm works to research best practice in terms of dealing with the challenge of standards and complaints against elected Members. Building on this foundation the research was designed to identify such improvements which could be utilised to make further improvements to mine and my colleague practitioners practice.

As observed, the research design was action research. Kemmis and Mc Taggart (2000, p.595) describe action research as a series of self-reflective spirals of: identifying a problem planning a change (*plan*); making that change observing the process and consequences (*act and observe*); then reflecting upon those changes and re-planning (*reflect*).

Fig 3.2 Kemmis and McTaggart
action research diagram (2000)

There are some problems with the Kemmis and Mc Taggart approach which I will consider further in this chapter regarding methological design.

3.3 Review of the forms of action research

I start by establishing the form of action research to be utilised. There are a few definitions of action research. It is more than carrying out research and then taking action. Action research can be defined as being carried out by a practitioner to improve their practice by reflecting on what they have done as a form of self-reflective practice (McNiff 2002). Reason and Bradbury (2006) explain that it is more than research and action as it is an orientation towards inquiry and as it comes in many forms such that they describe it as being a '*family of approaches*' (Reason & Bradbury 2006) which can span from the individual asking how do they improve their practice, to its application in the '*majority world*', where it is in their words:

> primarily a liberationist practice aiming to redress imbalances of power and restoring to
> ordinary people the capacities of self-reliance and ability to manage their own lives
> (Reason and Bradbury 2006, p. xxii).

They define it in terms of involvement of others, '...a participatory democratic process concerned with developing practical knowing in pursuit of worthwhile human purposes grounded in a participatory world –view...'(Reason & Bradbury 2006, p. 1)

52

And later in their introduction as: '...emergent, evolutionary and educational process of engaging with self, persons and community that needs to be sustained for a significant period of time...' (Reason & Bradbury 2006, p. 12).

Reason and Torbert (2001) suggest that the practice of action research can be divided into three pathways which could be used as a combined strategy, that of:

- *first person action* - that is a researcher working on their own practice;
- secondly *second person action* - that is working face to face with another to address issues of mutual concern; and
- thirdly *third person action* - that is working across a whole body or organisation

However if a multi-path option is considered, there will be different challenges in terms of practices for reflexivity as this will change depending upon which pathway is chosen (Marshall 2011). A key text regularly cited by action researchers is the *Handbook of Action Research* (2001). It is of particular influence as Peter Reason and Hilary Bradbury were the founders in 2003 of the Journal *Action Research* the leading academic peer review Journal. They thus assume a powerful position in being part of the gatekeepers (Miller, Greenwood & Maguire, 2003) as to whom and what will get published and acquire authority. The senior editor appointed was Reason and on his stepping down Bradbury took over. The Journal's first opening introduction paper (Reason and Bradbury 2003) set out the structure of the journal with a format of each issue containing an editorial; piece(s) on shaping the future; papers and influential ideas. Three of Action Research's editorial board highlight its direction in the first feature paper of the Journal: *Why Action Research?* (Brydon-Miller, Greenwood & Maguire 2003). Reason and Bradbury in the same edition set out the Journals values placed on as they describe it *'choice points for quality (or validity concerns)'* citing the *Handbook of Action Research* as a key text (Reason and Bradbury 2003, p.6) and adding action research as an agenda of seeking research which is practical with partnership capacity attached to being located in real life problems of significance while building an infrastructure.

The Journal bears out the aims and objectives of the *Handbook* with a number of repeated themes of feminist perspective and challenges to the west as described by inference as an opposite to the 'Majority world'. Intriguingly there is a liberationist theme which may have influences in Catholic liberation theology[24]. Bradbury and Reason argue in the first paper of the Handbook the aim of the Handbook (and by extension the Journal - see Reason and Bradbury (2006)) is to champion *participatory action research* through a '*family of approaches*' orientation towards enquiry aimed at improving participates lives. The tension of the scientific legacy of positivism and its difficulty in being applied to social sciences leads to the call to break out of positivism to post modernist. Reason and Bradbury further sets out a value judgement of the nature of western society with their observation that the modern western society has: '*a crude notion of economic progress*' (Reason & Bradbury 2006, p. xxiii). The Handbook in identifying the different approaches to action research implies there is some social hierarchy in terms of value that is:

- At one end an individual affair 'How can I improve?' followed by
- 'How can the organisation be improved?' to the
- 'Majority world 'being liberated by themselves and an example is given of micro-banking in Bangladesh.
- Action research can be used to initiate face to face enquiry groups or applied on a large scale and policy.

So in Reason and Bradbury's view (2006), action research is placed within the participatory location. However action as an end in itself risks being not seen as making a claim to knowledge. Reason says action research must be in a form of practice which is scholarly and contributes to knowledge that has an effect but it is not a methodology.

Reason states there is no right way to do the research as there are choices of method but there needs to be a commitment to quality in the research and you must make that clear and transparent for everyone (Reason 2003a). Reason and Bradbury are influenced by Kvale (1995) who addresses the issue of validity of qualitative research. Kvale argues that a modernist notion of true knowledge is better replaced by a postmodernist recognition that understanding of knowledge is a social construct. Kvale's

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[24] for example Action Research published a paper by Coghlan (Coghlan 2005) on the Jesuit teaching of St Ignatius Loyola and its application to action research

proposition is that justification by evidence is better replaced by a pragmatic concept of practical validity that is to say whether the knowledge is of application.

The influence of Reason and Bradbury is powerful because they have set out their manifesto by the Handbook and then controlled the academic inputs by the journal *Action Research*. The initial paper of the Journal (Brydon-Miller et al 2003) [25]set the scene by inter alia identifying areas of disagreement and seeking to identify areas of tension between action researchers. The paper in its commencement proceeds to adopt the Handbook's definition:

> ...a participatory, democratic process concerned with developing practical knowing in the pursuit of worthwhile human purposes, grounded in a participatory worldview which we believe is emerging at this historical moment. It seeks to bring together action and reflection, theory and practice, in participation with others of practical solutions to issues of pressing concern to people, and more generally the flourishing of individual persons and their communities...
>
> (Reason & Bradbury 2001, p.1)

As observed this is not so much a definition as a manifesto. Indeed the editorial team go on to publish on the website the '*Manifesto on Transformation of Knowledge Creation*'. Specific authors are identified as leads and the Catholic Action movement (Brydon-Miller et al, 2003, p.11) is commended. Reason and Bradbury (2003, p.6) make a key observation of authors being identified by their geographic position as it were shaping their world-view. That is to say a dichotomy of 'North' and 'South' in terms alternative paradigms. Reason and Bradbury observe, ' the Colombian authors [Fals Borda, O. and Mora-Oseljo, L.E.], invite fellow scholars to develop theory and practice beyond the dominant Eurocentric paradigm' and they add 'Their call is as relevant to compatriots as to many of us in the North who want to live and work outside the unsustainable but domineering logic of techno-economic rationality'.

Reason and Bradbury (2003) argue that action research should be faithful to its local origins, context and difference. This presents a challenge to the key issue of validity of a claim to knowledge which is not generalisable or capable of being replicated. I will return to this later in this chapter.

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[25] And on the editorial board of Action Research

Paradoxically as well as the developing world, the leading western action researchers are also given as major figures e.g. Agriyris, Schon, Torbert and Reason for organisational change. A note of caution, as a number of the researchers were also contributors to the *Handbook of Action Research* at times one is given the impression of a close-knit community. This can raise questions of quality from a peer review aspect. A common theme is identified, that there was dissatisfaction with the existing state of affairs '*with the way we were'* (Brydon-Miller et al 2003). Zuber-Skeritt is quoted (Brydon-Miller et al 2003, p.12) as saying deep inside she disagreed with the dominant paradigms which did not accord validity to practice sourced research. The difficulty of reconciling theories and the action researchers practices are a wide spread theme. Torbert expresses it in terms of values he espouses and values he enacts. The paper identifies a commitment to democratic social change and argues that action research cannot be objective and values free (Brydon-Miller et al 2003, p.13).

This appears to be driven by personal experiences and recalls theory of Mezirow (1990), with the notion of *transformative/ emancipatory learning*, that an experience creates an epiphany . This insight is of real value in determining the preferred action research for this enquiry question. This research asks not just about improving my practice but also how do we, the practitioners, all learn from the research in terms of improvement – that is best achieved by involving the participants who might not want to await a published report or even a summary of the first cycle's findings. Brydon-Millers et al's championing of the participatory element of the action research school explains the interaction will shape the researcher too. This is a direct contrast with the positivist standpoint of not influencing the studied or letting the studied influence the researcher. The key point is in the doing; that is the pragmatic approach leads to the knowing through doing rather than knowing through conception. The paper quotes Pat Maguire (Brydon-Miller et al 2003, p.15) as observing: 'all the theorizing in the world, feminist or otherwise is little use without the doing and action researchers are doers'. The paper cites with approval a further quote from Hughes that action research is his choice because he believes in old fashion virtues of compassion and truth. Compassion is to be part of the ethical pact a social studies researcher will commit to, that is not to cause suffering in the research and truthfulness is a given. The paper does not develop the moral high ground of action research further. Brydon-Miller et al then address the basis of the action research theory building. They say that positivism dominates and that as academics they had to find a

theoretical framework as an alternative. For the Journal editorial team she identifies three sources: *Critical theory*, *feminism* and *pragmatism* i.e. what works in practice. The tone of writing appears at times to be defensive with terms such as the '*need to justify'* (Brydon-Miller et al 2003, p.15). They observe how critical theory enables questions of power and identity and while critical theory assists, they continue to say that there is work to be done to articulate further and express the hope the Journal will help to do it. The 2003 Action Research Journal opening article served a bigger purpose in setting the agenda for future publication. That the Journal has continued to be published to date and shapes the academic discussion and definition is a mark of the far sightedness of the editorial team. The paper goes on to say the contributors were discouraged in their earlier years from research and action (Brydon-Miller et al 2003, p.12). This is an element of the 'objectivity' of positivism and the need to be objective by not interfering with the test subject. But by choosing not to take action you do not make things better.

So far my review has looked at the key influences of action research in terms of the textbook and the leading journal. The picture is that action research covers a wide and very diverse field of research. The Journal's editorial team clearly shape the design of theory because they decide what gets the authenticity and peer approval that makes a papers a claim to knowledge. Reason and McArdle (2004) examine theory. They make the point that action research is conducted by with and for people rather than research on people. This statement is by implication condemning the positivist view which has the objectivist distance yet also the power dimension. But it is not a methodology. They describe how action research as a practice shifts emphasis to a model of action, reflection and collaboration. One issue with the approach comes to mind and that is the ethical challenge of the closer involvement with the subject as there is clearly a greater risk of their interests being compromised if their lives are directly affected by research. Reason and McArdle (2004) envisage that the action research will have a number of milestones so while it is clearly longitudinal in time span it will have specific points where the mode of enquiry will change. They say there will need to be 'spaces' in the process for engaging in reflection and critical reflection. How this is done though is through a number of different schools of practice.

Reason and McArdle (2008) later collaborated in a paper *Action Research and Organisational Development* which considered how action research can contribute to organisational development. They noted similarity of organisational development and action research having a commitment to involvement and emancipation. The paper not unreasonably repeats a resume of action research and their key point is that organisational development is a close cousin of action research and that action research is not a methodology but an approach which shapes methodological practices and so it is about making choices which will be different in differing circumstances. The authors in their conclusion observe that if action research is used by an organisation development practitioner the quality of the work will hinge on: the choice of method; the reasons given to yourself and others for that choice; and your ability to explain it to the world. The paper does not address some perhaps critical concerns in terms of the different call on resources and timescale of applying action research to organisation development and techniques as adopted by McArdle in her young women in management study. Time and resources considerations may be quite different when working with a special interests group compared with people in an organisation. It therefore may mean a representative group has to make up the participants lest the organisation does not function and furthermore the organisation if commercial is more likely to want the work to be carried out in a measured time-pocket or defined number of cycles.

Need to set quality

Zuber-Skerritt and Fletcher (2007) set out the requirement of quality in an action research thesis, observe that action research has gone through a number of periods of activity itself. Firstly the inter world war years it was located in Germany then via émigrés to the United Kingdom and United States by the work of Kurt Lewin and the establishment of the Tavistock Institute of Human Relations London.
This action research was followed (as they call it) in '*third world countries'*.

Their choice of language is worthy of note. The participatory action research movement avoids the use of hierarchy language and describes the developing or third world as the 'majority world'. Paradoxically they accept the minority world academics Reason and Bradbury's definition as a possible description of action research (Zuber-Skerritt & Fletcher 2007).

Their key issue in their paper is to ask what would be defined as quality action research. Following a symposium; a definition was agreed that action research shall be about (Zuber-Skerritt & Fletcher 2007, p.414):

- People developing their own work and own situations;
- Grounded in interlinking reflection and action
- Making the experiences public to a field wider than the participants

and

- Participants are involved in data gathering
- Participants are involved in the critical process
- Power sharing
- Collaboration
- Self-reflection / self-management / self evaluation
- Public learning which is progressive with a self-reflective spiral of planning, acting, observing, reflective planning etc
- That the reflection is such to be that of a self reflecting practitioner

Zuber-Skerritt then developed a refinement she describes as 'CRASP'
That is:

- **C**ritical collaborative enquiry by
- **R**eflective practitioner being
- **A**ccountable
- **S**elf-evaluation of their practice and
- **P**articipative problem solving and continuing professional development

The writers claim that the definitions are influenced by the *Frankfurt School of Critical Theory* and it is more than of practical application as it ought to lead to creating a greater freedom to emancipate. They argue that the *Handbook of Action Research* sets out that the nature of action research in terms of quality is about the process rather than the content. The reason is that it is the engagement with the research enquiry in terms of the relationship and the role it has in practice is more important than the actual content.

There is logic to this argument as the action researcher is unlikely to know what contribution to knowledge and practice the enquiry will establish at the

commencement of the first spiral and say the end of the third; as if this was clear then the practitioner could simply leap over a cycle.

 This requires a number of elements to the process being (Zuber-Skerritt & Fletcher 2007, p.418):

- Practice orientated;
- Participative – including all stakeholders in the research;
- Focussed on significant issues relevant to themselves and the wider community;
- Utilising multiple means of acquisition of knowledge; triangulation[26] including cross checking discussion reference to current literature;
- Rigorous in action research methodology and contributing something new;
- Being explicit about assumptions so readers can tell exactly what is taken;
- Reflective critical and self-critical;
- Ethical

Zuber-Skerritt and Fletcher proceed to identify what the action research thesis should and should not be. Firstly it needs to be to the point. By this they mean that quality counts more than quantity with clarity of writing and succinctness in terms of language. It should, apart from technical construction be critical of the subject the literature and self underpinned by sound methodology and be an original contribution to knowledge. However for it to be action research it must be both a contribution to practice *and* knowledge. Considering the issues in detail, the action research has to address a question of concern that a group of people share and what project could be worked upon to address their concerns as Kurt Lewin (1951) called a *'thematic concern'* (Zuber-Skerritt 2011, p 41) that is it has to enable improvement for the people concerned. The authors want to see something of value produced.

In addition the work must be a contribution to knowledge in practice and theory with a strong emphasis on critical reflection being a component of each chapter and a final or epilogue as well. This should address self criticism with addressing:

- Individual; group and organisational learning
- Professional and organisation development and learning

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[26] In the social sciences, the use of triangulation can be traced back to Campbell and Fiskel (1959) who developed the idea of 'multiple operationism.'

They explain that the thesis must have a golden thread of the argument which is summarised at the end with conclusions backed by evidence.

The authors recognise a key challenge is to show an original contribution to theory and practice which is original and also importantly their own work. Their solution is to recognise two separate processes that is:

1. *Core action research – fieldwork*
2. *Thesis writing*

Overall the writers are making the point that the action research has to be heavily reflective as far as the researcher is concerned. It is about reflecting in a critical way by the researcher on the work that is carried out by themselves and what it means. The reasoning for this process is not explicit but within the action research literature the theme is of feedback spirals or loops. Zuber-Skerritt focuses on the researcher rather than the output for the community as a whole. Reflectivity is clearly important for ensuring that the work stands up to having meaning but it cannot be certain to produce better outcomes for a community as the bias appears in Zuber-Skerritt on the 'me'. Indeed with the terminology on the conventional e.g. use of '*third world*' one could say that the participative component is secondary to the development of the community. The paper is valuable in terms of how a thesis ought to be constructed but less convincing in terms of the value of fieldwork that results in terms of theory and practical application. So while Zuber-Skerritt and Fletcher acknowledge the action research stance of Reason and Bradbury's *Handbook* the element of participative action research i.e. the emancipatory component has less weight applied than the critical theory. The writers say that the participants may be involved in data collection analysis and interpretation but less weight on their reflective element is placed whereas it is stressed that it is vital to the researcher for their development.

The writers are themselves somewhat less than certain with the subject of the province and extension of the realm of ethics. As observed participants by definition are taking part in research as subjects referring to the Journal *Action Research 2006 Ethics special edition* a distinction is drawn between traditional research and the issue of using humans as subject and the university Institutional Review Boards ('IRB'). The IRB response is said to be based on a traditional positivist's research

style which seeks clarity in terms of hypothesis, pre-determined methods and expected outcomes yet participatory action research, they say, is not prescriptive in its processes or final goals. The solution the writers argue is to approach the IRB head on and seek to enlighten them on the components of democratic collaborative of action research. This is not entirely convincing as it is based on the assumption that democratic and collaborative approaches ensure that the subjects are fully conversant with the consequences of the research and the changes it may bring about. For example an insider participatory researcher is by definition acting within an organisation and interacting with the parties.

This presents a dilemma. Zuber-Skerritt and Fletcher (2007, p.424) observe:

> Brydon-Miller and Greenwood (2006, p.126) remind us that there are two aspects of action and research. They suggest that the actions or interventions developed with participants in AR do not constitute research and should not require IRB approval...

Unless this reasoning is taken out of context, it cannot be right. The process of securing the participation must be on the basis of informed consent and that will need a proper understanding of the risks by an assessment which will need research in itself as to risks and the risk on the participant being paramount. This would need the researcher to know a degree of personal information about the participant. The need to develop a robust ethical case for research is a key message from the literature.

3.4   Models of action research

There is a wide variety of forms of action research. Bradbury-Huang (2010), describes action research as a family of practices. Bradbury-Huang (2010), argues that action research is experiencing a resurgence in terms of being accepted as a tool for what she terms 'helping professions' and becoming 'tolerated more' as a potential riposte that social science offers little of value to the people it studies. For the context of this paper the value is the contribution to practice of my research and how this can assist my organisation and like bodies, which is the golden thread for this thesis (Zuber-Skerritt & Fletcher 2007). Nevertheless there appears to be an

agreed set of ground rules irrespective of the mode of practice, Bradbury-Haung (2010, p.98) quotes:

> ...Action researchers see our work as providing models for increasing the relevance of conventional social research to wider society. What makes our work fundamental to the revitalization of social research more generally lies in its orientation towards taking action, its reflexivity, the significance of its impacts and that it evolves from partnership and participation. By <u>partnership</u> and <u>participation</u> we are referring to the quality of the relationships we form with primary stakeholders and the extent to which all stakeholders are appropriately involved in the design and assessment of inquiry and change. By <u>actionable</u> we refer to the extent to which work provides new ideas that guide action in response to need as well as our concern with developing action research crafts of practice in their own terms. By <u>reflexive</u> we mean the extent to which the self is acknowledged as an instrument of change among change agents and our partner stakeholders. By <u>significant</u> we mean having meaning and relevance beyond an immediate context in support of the flourishing of persons, communities, and the wider ecology...

The distinction is made from conventional social science in contact in terms of partnership with the people/stakeholders and the action having an effect going forward. This is coupled with the reflexivity in terms of the change to self. The key point from this statement is the researcher is carrying out a change. It thus means there will be a change following the encounter with the researcher. This has the potential to bring it into conflict with the standard positivist perspective that the researcher should just observe and ensure there are no ethical issues arising particularly in terms of harm to the stakeholders. While this can be anticipated inevitably there is going to be some sense of not knowing what changes have been wrought until after the change has happened. Thus the need for reflexivity and need to understand how change is happening and what influence the researcher has[27].

The strength of Bradbury-Huang's paper is the stress on the *action* of action research, warning that just showing results that say the CEO is simply interacting with formal power holders is no more than to be expected. The key to action research is that there has to be partnership and practitioners' involvement. To illustrate the point scenarios are described of the use of workshops multi-media

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[27] I shall examine literature on ethics further in this review and following chapters.

events and engaging in a conversations conference; but that is not the end of the matter, those participants must be change agents themselves. In addition there will need to be some form of engineering a post-intervention assessment otherwise the lasting effect cannot be determined a crucial consideration in ethics.

Living Theory and application to practitioner research

Of all the models of action research, a significant scholarly output has been contributed by Whitehead and McNiff. They are the proponents of the *'living theories'* action research which places particular emphasis on the role that the practitioner makes to the contribution to knowledge in their improvement to practice by the use of reflection. McNiff says self-reflection is central. For her form of action research (*living theories*) the research subject is the researcher. But it is not subjective; the reports produced must be objective, she states:

> ...When you produce your research report, it shows how you have carried out a systematic investigation into your own behaviour, and the reasons for that behaviour. The report shows the process you have gone through in order to achieve a better understanding of yourself, so that you can continue developing yourself and your work...
>
> (McNiff ,2002, p. 6)

Their understanding of action research is located around the notion of the 'self'. The practitioner is required to carry out a systematic investigation into their own behaviour and reasons as a form of self evaluation.

McNiff and Whitehead are located in the education practice that is to say they are looking in terms of the educationist –pedagogist dilemmas of how can those who practice the teaching of learning learn themselves? They cite with approval *Shani and Pasmores'* definition of action research:

> Action research may be defined as an emergent inquiry process in which applied behavioural science knowledge is integrated with existing organisational knowledge and applied to solve real organisational problems. It is simultaneously concerned with bringing about change in organisations, in developing self help competencies in

organisational members and adding to scientific knowledge. Finally, it is an evolving process that is undertaken in a spirit of collaboration and co-inquiry...

(Shani & Pasmores 1985, p.439)

McNiff asks 'how do I improve my work?' For other scholars the question is broader that is how do 'we' improve our work as practitioners and potentially how do we improve the lives in the case of participatory action research. This form of action research has found a particular home in educationalist academia .McNiff and Whitehead (2006) explain that an educationalist at the London Institute of Education (Hirst 1983) began to notice there were flaws in the epistemological foundations of his education theory in that generalisations of practice were expected to be validated in due course by theoretical underpinning whereas it was possible for practical principles to stand up to practice tests.   It is explained (McNiff & Whitehead 2009, p. 2) that practitioners face conflict with a traditional academy outlook that purposefully fosters a view that: *'practitioners are capable of telling good stories but not of creating knowledge'.*

They argue practitioners output in terms of producing knowledge is not credited as being the work of competent theorists producing academic theory. Their response is that due to power dynamics it is as much about keeping practitioners in their place. McNiff says that action research can produce theory with a methodology of review, reflection and evaluation. The key is in the design of the plan of action. Rather than a third party traditional researcher standing outside the research field and observing describing and explaining, the *living theory* action researcher is describing what is going on in their learning and social context with an aim to produce theory (McNiff & Whitehead 2009). So as you are alive and making a claim about your practice it is 'living' and that claim is a claim to knowledge hence a theory is produced. The challenge to this approach is the risk of it not having any validity or robustness. McNiff and Whitehead anticipate this by arguing there must a validity check regarding your own *'personal validity'* and the quality of the communicable idea *'social validity'* (McNiff & Whitehead 2009, p. 25).

Whitehead and McNiff (2011), refer to Schon's metaphor of the topological landscape of the practitioner. Schon (1995) starkly sets out the dilemma:

> ...The dilemma of rigor or relevance. In the varied topography of professional practice, there is a high, hard ground overlooking a swamp. On the high ground, manageable problems lend themselves to solution through the use of research-based theory and technique. In the swampy lowlands, problems are messy and confusing and incapable of technical solution. The irony of this situation is that the problems of the high ground tend to be relatively unimportant to individuals or society at large, however great their technical interest may be, while in the swamp lie the problems of greatest human concern. The practitioner is confronted with a choice. Shall he remain on the high ground where he can solve relatively unimportant problems according to his standards of rigor, or shall he descend to the swamp of important problems where he cannot be rigorous in any way he knows how to describe. Nearly all professional practitioners experience a version of the dilemma of rigor or relevance, and they respond to it in one of several ways. Some of them choose the swampy lowland, deliberately immersing themselves in confusing but critically important situations. When they are asked to describe their methods of inquiry, they speak of experience, trial and error, intuition, or muddling through. When teachers, social workers, or planners operate in this vein, they tend to be afflicted with a nagging sense of inferiority in relation to those who present themselves as models of technical rigor...

(Schon 1995, p.2)

The argument in a nutshell is that the work done by practitioners while as valuable (indeed more so in terms it is readily applicable to practice by definition) is treated from an academic view as of less value to creation of theory due to its absence of evidence in the terms of the quality measure for academic rigour. But this is due to the hegemony of the positivism legacy of tradition.

It therefore follows that action research can be used to examine how a practitioner improves their practice and provide it is chronicled with appropriate evidence based vigour it is a contribution to knowledge.

My research as a practitioner is within an organisation and thus an insider researcher. I now consider the academic issues regarding this aspect of the research.

3.5   Insider action research

In terms of a definition for insider researcher, I mean research by a member of an organisation who researches that organisation while continuing to play a functional role other than simply a researcher of that organisation (Coghlan 2005, p. *X*). Coghlan contrasts this with a researcher who enters an organisation temporarily for the sake of conducting research. Another way to define it is that the outcome of a timed encounter (which will be longitudinal) within a designated research programme within the organisation to which the researcher belongs. It does mean that the researcher is inside the situation, and so will inevitably influence what is happening by their presence (Mc Niff 2002). Mc Niff addresses this problem and says: '*You can however produce reasonable evidence to suggest that what you feel happened really did happen, and you are not just making it up.'.* So to make a claim to knowledge there must be some evidence. She continues:

> They might suggest that you need to look at the research again and gather further data, perhaps, or tighten up the link between your data and your criteria. Once you have other people's validation you can say in all honesty, 'I am claiming that I have influenced this situation because I started looking at ways in which I could improve what I am doing, and I now have the endorsement of other people to show that what I say I am doing constitutes a fair and accurate claim.
>
> (McNiff 2002, p.19)

Herr (2005) explains the need for satisfying the requirement for validity in terms of the *taken for granted* which is in her words like the outsider *'going native'.* The tension in the literature is of the researcher as a researcher in the organisation and also the researcher when they are doing their everyday tasks. How do they differentiate and even if they do operate for example set times or activities which are purely work or research how do they stop an overlap. In addition the practitioner will have been socialised into the culture by their education and professional organisation, furthermore there is a tendency as to want to place qualitative research as it were as a social science that is to utilise surveys; questionnaires; observation work and archival plus document analysis. This means that the insider action researcher must take a narrative approach with caution; not because it

is invalid rather because humanities have not mainstreamed it as a valid orthodox discourse. Unlike the consultant the researcher's career path does not terminate when the research is completed.

At the heart of the insider research lays the paradox of the possession of the insider viewpoint which is going to be more intimate due to time and experience than those insights of an external researcher looking in. The organisation's strengths weaknesses, opportunities and threats are well-known and reputational management means the picture presented to outsiders often is quite different to the insider's knowledge. Action researcher insiders have acquired knowledge of the organisation from being a player in the processes being studied. But that does not mean the researcher has an objective viewpoint to make observations. Johnson and Duberley (2003) argue that the researcher in management research has to address their meta-theoretical assumptions in organisational analysis. This is key to a successful insider research activity because the very understanding of the research need to be purged of underlying or intuitive understandings. A reflexivity process must be applied to at least identify our meta-narrative understanding commitments which are a component of our epistemology. However it supposes it would be possible to step outside to carry out an audit and if that was possible with what framework could we apply that would not also be shaped by our meta-theoretical commitments? It is circular and can end with a question as to what can ever constitute a fixed truth or outcome?

Herr (2005) promotes the tool of *triangulation,* that is multiple perspectives guards against simplistic bias or self serving. Watt (2007) suggests the value in keeping a research journal as a device to assist in making meaningful connections between theory and practice. Coghlan and Casey (2001) examined the challenges of the long term practitioner *'permanent insider[28]'* in an organisation; their example was of nursing, but it could be more widely applied. In that case there were strict rule to protect patient confidentiality and an ethical framework set by external bodies. Key aspects were:
- Pre-understandings
- Organisational Roles i.e. researcher and practitioner
- Politics

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[28] Rather than permanent, (Coghlan & Brannick 2010) suggest the use of 'complete' as no one's job is secure.

Pre-understanding is a double edged sword: on the plus it means the insider knows how the system operates; the jargon the taboos and can participate without drawing attention; on the minus it means that the researcher may take things too much for granted and overlook matters they as an insider take as given. Furthermore as their status is an operative in the organisation they may not be afforded access to material capable of forming research data in a way that a validated external consultant might because of issues of workplace confidentiality or their position in the hierarchy. The access issue is likely to be more difficult, the greater the organisation dimension is crucial to the action research.

The second matter is the researcher's *role in the organisation* and how he or she interacts with their immediate associates. Again ethical issues will be necessary to consider as it may require colleagues as well as clients consent.

The third issue is *organisational politics*. Coghlan and Brannick (2010) consider this in detail in their chapter 8. A key issue is how much will the research be determining the day to day work of the practitioner and will the management consent? The issue is likely to be dependent upon how much value will the researcher's activities as researcher add to the organisation.

Eikeland (2006) fairly points that the organisation may have legitimate concerns too, such as whether trade secrets or confidentiality will be compromised by the action research. Coghlan and Brannick (2010, p.103) represent the possibilities of insider research as a table below:

Researcher:
No intended
Self study in action

Quad 1

Traditional research
collection of survey data
ethnography, case study

Quad 2

Classical action research*:*
internal consulting – the
system is the subject being
studies

System:
No intended
study in action

System:
Intended
study
in action

Quad 3

Individual reflective
practice *- researcher*
engaged in reflective study
of professional practice

Quad 4

Transformational change *-*
both the researcher and the
system are engaged
learning history

Researcher:
Intended   self study in action

Fig 3.3 Coghlan and Brannick
Focus of researcher & system

The table is a way of representing the various modes of the insider researcher. The
horizontal axis represents the organisation (system) and the vertical axis the researcher.
Coghlan and Brannick (2010) call the quadrants: traditional research (Q1); classical
action research (Q2); individual reflective study (Q3) and transformational change (Q4).

They note the first quadrant of traditional research (Q1) is outside the scope of their
book. Quadrant Q2 is the classic action research with an absence of self-study in action
it may entail a *piggy-backing* onto existing projects such as addressing a pre selected
problem or issue. They say this research would tend to be carried out by MBA students
who may pick pre-existing projects to work within (Coghlan and Brannick 2010, p.105).
It carries some risk of organisational politics and its success will be dependent on a
number of variables such as relations with senior management and subordinates. There

is a risk of neither being willing to direct additional resources to assist in the researcher's enquiry.

As the DBA is focused on improvement of the *'I'* and the *'we'*, the work is located in the third and fourth quadrants. It is the work of a *'reflective practitioner'* (Schön1983). The advantage of these quadrants is the additional learning of the practice of the researcher for themselves which will enable the improvement into his or her practice which if subject to academic rigour can translate into a *'we'* which is capable of being within the fourth quadrant. The authors observe the fourth quadrant can accommodate specific forms of action learning such as cooperative inquiry.

Quadrant 4 also involves the system – it could evolve from quadrant 3 or even quadrant 2. However it is likely to involve a specific commitment of the organisation to change of which the researcher is but one member and not necessarily the lead. The authors include extracts of their students reflecting on their experiences and to illustrate that the work may start in one quadrant and move to another. The fourth quadrant may offer some collateral benefit to the organisation in its learning, as it will surely seek to improve for the sake of its shareholders and investors or for the public if not-for-profit.

Herr (2005) explains the need for satisfying the requirement for validity in terms of the *taken for granted* which is in her words like the outsider *'going native'.* This is a major challenge for qualitative research because of the choice of language and narrative may be loaded with assumptions of the system but alien to the outsider. Furthermore as the persons most likely to benefit from the research are the researcher and his professional colleagues they are inevitably alienated from the community of non-practitioners. It is a tension in the literature identified of the dichotomy of the researcher as a researcher in the organisation and also the researcher when they are doing their everyday tasks i.e. practitioner not researcher. There will be a challenge of how do they differentiate between the two modes. There may be occasions to operate for example at set times or activities which are purely work or research. In addition the insider practitioner will have been socialised into the culture by their education and professional organisations. This can be addressed by tools such as a personal journal keeping a record of significant

aspects of practice and re-visiting it with additional reflective comments and observations.

Participatory Action Research

The second aspect of this research is to work with other practitioners. The approach adopted was participatory action research. By its definition this is a form of action research that involves more than the researcher.   McIntyre in the Sage Qualitative Research Methods Series sets out the inclusive nature of Participatory Action Research (PAR). Two projects are used as examples, involving as she describes *'marginalised communities'* (McIntyre 2008, p.xiv). She argues that too often cultural, religious, familial and community beliefs and practice are overlooked. PAR is said to be a research method to tackle the issue. McIntyre (2008, p.1) traces the PAR movement to South America and identifies three components: that is:

(a) A collective agreement to investigate an issue or problem;
(b) A desire to engage in a self / collective reflection to gain clarity about the issue
(c) Join decision to work to a useful solution: and
(d) Building of an alliance between the researcher and participants

She identified the epistemology of critical theory as a vital component to PAR in the sense that power relations need to be understood. This form of research is very useful in terms of giving models on how data could be collected from a community or sub- community. Though paradoxically if the very shortcomings of the development of the deprived community can be a barrier to full participation due to matters such as peer pressure, risk or fear of repercussions, and because they may not be able to fully speak freely or reflect or apply their learning as a result.

The risk of such an intervention is addressed by Eikeland (2006), who calls it a form of '*condescending ethics'* (Eikeland 2006, p.37) because it sees fellow human beings as research subjects. This issue is explored further in this paper

3.6   Action research - specific ethical considerations of the practice

The requirement of conducting research ethically means that the rigour is not only for the sake of the validity but more importantly ensuring the ethical considerations are fully addressed and that is only possible by the researcher being very clear as to the implications and risks of each stage of the cycle and in the case of PAR significant consequences to the community if there is research drift. Gustaven (2008) asks when you apply theory to practice can you reverse and use practice to generate theory? He says yes, but that theory needs to be fruitful in terms of creating better new theory. His reasoning is that for action research not to be a cyclical in a circle sense it has to produce some theory with a social purpose (Gustaven 2008). The use of critical theory can assist in turning the findings of an enlightened researcher to influence the society in a wider sense. The use of a form of open communication by new methods can assist by public sphere such as for example the internet or video files or scripto-visual as was utilised by Whitehead (supra). A further Nordic academic Hilsen (2006) similarly proposed that the qualitative research method ought to have fairer power relations and the research take on a responsibility as to:*'how the research affects the socially constructed lifeworld of his/her participants'* (Hilsen 2006, p.33).

The relationship should be a form of social contract with the participants. She also considers the responsibility of the insider action researcher and the concept of *'tempered radicalism'*, that is where a person works for change within a structure rather than opposing it or from the outside (Hilsen 2006, p.33). She points to the ambivalence which is not dissimilar to the observations Whitehead makes about the living contradictions, though he is talking about the researchers difficulty in resolving a subjective contradiction, whereas Hilsen's contradictions are created by relations between the practitioner and the organisation, though there is a strong possibility both could co-exist. Similarly Moore (2007) found that practicing action research led to him questioning the validity and nature of the organisation he was working in and in turn his own position in the organisation. He considered this was more likely to happen at the Doctor of Business Administration level than at Master of Business Administration (MBA) (Moore 2007). Moore observes that many MBA researchers

will find a way of accommodating the research challenges of pre-understanding, role duality and organisational politics, but be the poorer for it.

How to resolve contradictions is an enquiry in itself and Whitehead's proposals to utilise critical theory plus a non academic means of presentation methods with new technology is certainly a possible way forward in that it has the aspect of 'open communications'. Examples of use of drama (Mienczakowski and Morgan 2001) and creative arts and photography (Brinton-Lykes 2001). It will be expected that the use of technology will be intense. As an example much of the research will be by use of computers and digital processors for monitoring and recording. Such methods raise the ethical challenge of the degree of consent to the subject. This is inevitable in PAR because the whole foundation of the action research is to change people's lives for the better but they have to agree to a research project composed of cycles which build on each other, thus going forward there will be some uncertainty that it will transform everyone's lives[29] . Furthermore, Boser (2006) points out that democratic intentions do not obviate the need for ethical considerations.

The Journal *Action Research* produced a themed exploration of ethics (Brydon-Miller et al 2006) quoting the romantic movement history painting: '*Liberty leading the People*'[30] to observe the destruction in the pictures foreground mist. They point to the death and destruction that surrounds 'Liberty/ Marianne'. Essentially the message is action research can be a powerful agent of change and thus has to be used with consideration and responsibility to those that may be affected by the researcher's intervention. The editors had observed the need for greater consideration of ethics and in a sense plug the gap by producing some papers themselves. They observe:

> ...we have frankly been surprised by the apparent overall lack of interest in this crucial issue. This is reflected not simply by the relatively small number of submissions received for this special issue, but by the overall dearth of literature exploring ethics and action research and by the failure of most action researchers to include in-depth examination of the ethical dilemmas of their work...
>
> (Brydon-Miller et al 2006, p.7)

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[29] For example what if the majority are better off but a significant minority are worse off and what if it is gender or racial discriminatory- action research is relatively silent on equalities.
[30] Painted by Eugene Delacroix

Eikeland (2006, p.37) identified a short coming of research in seeing people as the '*other*' and thus establishing '*condescending ethics'.* This is a paradox of positivism wanting to separate the observer from the observed. The action researcher as insider is not separated from the observed and so their obligation as to the welfare of the observed is greater because they do not maintain a distance. Eikeland (2006) echoing the editorial board of *Action Research* stated concerns over the shortage of extant literature on action research ethics. Indeed he says his paper is published because of the absence. One solution suggested is to create a peer community of action researchers who will work together in support of the ethical challenge to avoid the action researcher '*going native'*[31] (Eikeland 2006, p.40). The ethical challenge of *going native* is two track because if the researcher is insider researching they have to ensure they do not succumb to the organisation's ethical framework or lack of it supplanting their own. Journals and diaries can provide some narrative though they need to be reviewed lest there be an unconscious slippage into the organisational values transposing the research ethics. Because of the unique challenges as discussed above the Institution Review Board may struggle with the action research proposal or alternatively sanction a project without understanding the full implications, Eikeland (2006). Brydon-Miller and Greenwood (2006) set out a potted history of human subject experimentation which at extreme included deliberate harm[32]. The challenge is said that positivist research can be reasonably fully articulated with hypothesis, methodologies and expected outcomes. Brydon-Miller and Greenwood (2006) refute this arguing that with any human element there will be unpredictability and guesswork and thus action research's predictability has little difference. They give an example of their own Universities (Cornell and Cincinnati) where a dialogue was set up with the IRB to set the scene regarding the qualities of action research. The suggestion that the University established familiarity for the board with action research rather than the individual research has merit though it does mean that the volume of action research work is going to have some effect on the board's familiarity of the precise nature of action research and the researcher still has a duty to set out what their anticipated risks and steps to protect the participants

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[31] The choice of language is Eikeland's – which is ironic as some would argue such a term is loaded e.g. the character of Colonel Kurtz in Conrad's 'Heart of Darkness' (1902)
[32] I.e. Nazi medical experiments

will be. Indeed the authors suggest the participants could have a role in the submission of the proposal to the IRB.

A tricky issue is the recognition of the contribution of the participants and taking their contribution without credit (Brydon-Miller & Greenwood 2006) or perhaps acknowledging the ownership of the intellectual property. A paper by Greenwood et al (2006) in the Action Research Journal's *Ethics Special* observed the value of local knowledge and the question of ownership. Greenwood et al ask how does the professional academic researcher as the doctorate researcher practitioner formulate the claim to contribution to theory if there are contributions from the participants? They answer by suggesting that firstly the researcher needs to follow established practice, by crediting all sources avoiding suggestion of plagiarism and secondly establishing a collective or at least representative consultative protocol to sound out issues about authorship and accreditation. The lead author observes (Greenwood et al 2006, p.85):

> This story shows a complex mixture of positive and negative elements, local co-authors were named but I arm-twisted them into being co-authors at all. At the same time the group process forced some of the content I strongly wanted to include in the manuscript to be dropped, in deference to the wishes of the local participants

The authors admitted it was unsatisfactory and there was no easy answer observing that putting aside the popular romanticism of action research (Greenwood et al 2006). Not all action research relationships are close and caring and can with large scale urban and industrial become distant and even adversarial. They conclude by stating that they do not have answers but suggest dialogue and working with the community of action researchers to enhance the action research movement's ability to deal with such matters. Silverman, Taylor and Crawford (2008) examine the question of ownership in social research and suggest that researchers should act as advocates for the disenfranchised (Silverman et al 2008, p.76). The difficulty with this approach is the creation of further ethical challenges in terms of a legal practitioner's professional duty to act in the best interests of their client and questions of conflict of interest as a researcher wanting to acquire research data. Furthermore such responsibility sits uncomfortably with the duty the researcher holds to be non-partisan and the common law English legal system which is adversarial.

3.7   Action research to implement the governance aspect of the Localism Act

The literature supports a proposition that the improvement in standards of member conduct will not be achieved by the challenging by officers of an authority of their elected members. While there are concerns nursed about the effectiveness of the new standards regime at time of the research i.e. mid 2012 –mid 2014 it was still early in implementation (July 2012) so there is potential for change. To improve its effectiveness it will therefore require the change to come from the elected members themselves and empowering the community to better make complaints if they feel they need to do so. Rather than wait for complaints, the energies of professionals would be best directed towards efforts to improve training and development of elected members in terms of ethics and behaviours.

Adore (2003) argues action research is a valuable paradigm to facilitate the learning of occupation behaviours by training and development and because action research ensures collaboration through participation acquisition of knowledge delivering social change and empowerment of individuals.   Adore (2003) further suggests the empowerment will improve the level of satisfaction and motivation. If this is so then action research focused on implementing the Localism Act will generate a positive response from elected member and a more constructive way of improving standards. An application of action research to community empowerment is set out below setting the scene with Cummings and Worley's action research diagram (Fig 3.4) and Swanson's taxonomy of performance and applying it to a participant action research paper by Trehan and Peddler (2009)

```
┌─────────────────────────────────────┐
│                  1                  │
│        Problem Identification       │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  2                  │
│  Consultation with specialists –    │
│            literature review        │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  3                  │
│  Data Gathering and Preliminary     │
│               analysis              │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  4                  │
│      Feedback to client or key      │
│               contacts              │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  5                  │
│       Joint diagnosis of problem    │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  6                  │
│        Joint action planning        │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  7                  │
│               Action                │
└─────────────────────────────────────┘
                    │
                    ▼
┌─────────────────────────────────────┐
│                  8                  │
│     Gathering of data post action   │
└─────────────────────────────────────┘
```

In Trehan and Pedler (2009) example this point was very difficult – an informed stakeholder had different expectations

Vital to put time in for reflection

Fig 3.4

Cummings and Worley
Action Research Diagram
(2001, pp.24-6)

Action research
Change

Basic research
- **Understand**
- **Operate**
- **Troubleshoot**

Fig 3.5 Swanson's (1994)
Taxonomy of performance

Invent

Improve

*Repairs_*
Fixing
Troubleshoot
~~~~~~~~~~~~~~~~~
Operate

The organisational training and development requires essential preparation and fieldwork to implement the change. Swanson sets out a model (fig 3.5) to illustrate when the research moves beyond fixing and repairing as a form to action leading to change. Trehan and Peddler (2009) described a case study of an attempt to involve the community at a neighbourhood level where they acted as consultants' facilitators became overwhelmed to a partnership board of agencies, businesses public sector and third sector[33], the aim was to get greater involvement in local decision making. The authors recap the complexity of the system with a myriad of feelings including insecurity of the players and information overload (Trehan & Pedler 2009). The key learning was the need to take adequate time to reflect as when this was not done they could not manage the information. When the time came to discuss findings with the commissioners (Local Council Executive) feelings erupted over time scales. In terms of the action research cycle (Cummings and Worley) this would be point four of feedback. The Executive wanted elections in May[34] for neighbourhood representative and the

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[33] The Voluntary Sector
[34] In English local government all elections are held in May-June

facilitators said they would not be ready until September. Eventually September was agreed.

This work illustrated some important learning points: firstly, that you cannot embark on action research and expect to rigidly hold to a pre-arranged timetable as you need to understand the landscape; secondly, the reflective time must be programmed in or the learning will be incomplete or even lost: Trehan and Pedler observe: '*the facilitators experienced intense pressures and as group facilitators we fought for reflective space and time.*' (Trehan & Pedler 2009, p. 43*) a*nd thirdly, it cannot be assumed the action researcher will be able to set the timescales that they feel are appropriate so the feedback and recommendations session(s) may be dramatic with the researcher open to challenge in terms of their research plan timing. This builds on the need for sufficient refection to be taken to ensure that the foundation of Swanson's taxonomy of performance is sound. Sharma (2005) identifies that the political and public pressure on councils will have significant changes as the council members change following election results. This means that the election cycle has a profound impact on the direction and vision and its priorities so for example an environmentalist perspective can change to an emphasis on jobs and growth. Silverman, Taylor and Crawford (2008) argued it was the obstacles they encountered which generated the most important lessons.

The action researcher can thus find themselves in the middle of such changes mid-cycle whereby everything has changed. Badham, Garrety and Zanko (2007) point out that the researcher who works with an organisation particularly as an insider needs to balance the two masters that is the *organisation(1)* and the *academic system(2)* and the theory produced that can actually be used. Badham et al argue at times it can result in a *bricoleurism* - a making do with whatever is at hand, that is where academically a contribution to knowledge has been made which is of no practical use to the organisation because it has changed and is thus a form of '*Situational Irony*' (Badham et al 2007, p.332). Mehta, (2008) warns that bricoleurism ought to be within a methodological framework with a consideration to the rigour required.

Koshy et al (2011) considered the illustrations of action research in terms of the process. She noted several variations that of Kemmis and Mc Taggard (Kemmis & Mc Taggard, 2000) O'Leary's cycles (O'Leary 2004) and Elliot's research cycle (Elliot 1991). Kemmis and McTaggart's model appears to follow a degree of orderliness which requires that all the stages have clear openings and closings. Kemmis and McTaggart acknowledge this themselves without self-contained cycles of planning acting and observing.

Hopkins (1985, p. 51) says that the Elliott (see Fig 3.6) model can: '*recapture some of the 'messiness' which the Kemmis version tends to gloss* [over]'

First

Cycle

| Initial Idea |

| Reconnaissance |

| **General Plan**
Action Steps 1
Action Steps 2
Action Steps 3 |

| Implement action steps |

| Monitor Implementation and effects |

| Reconnaissance | → | Revise General Idea |

Second

Cycle

| **Amended Plan**
Action Steps1
Action Step 2
Action Step 3 |

| Implement of next action steps |

| Monitor Implementation and effects of the revised Action Steps |

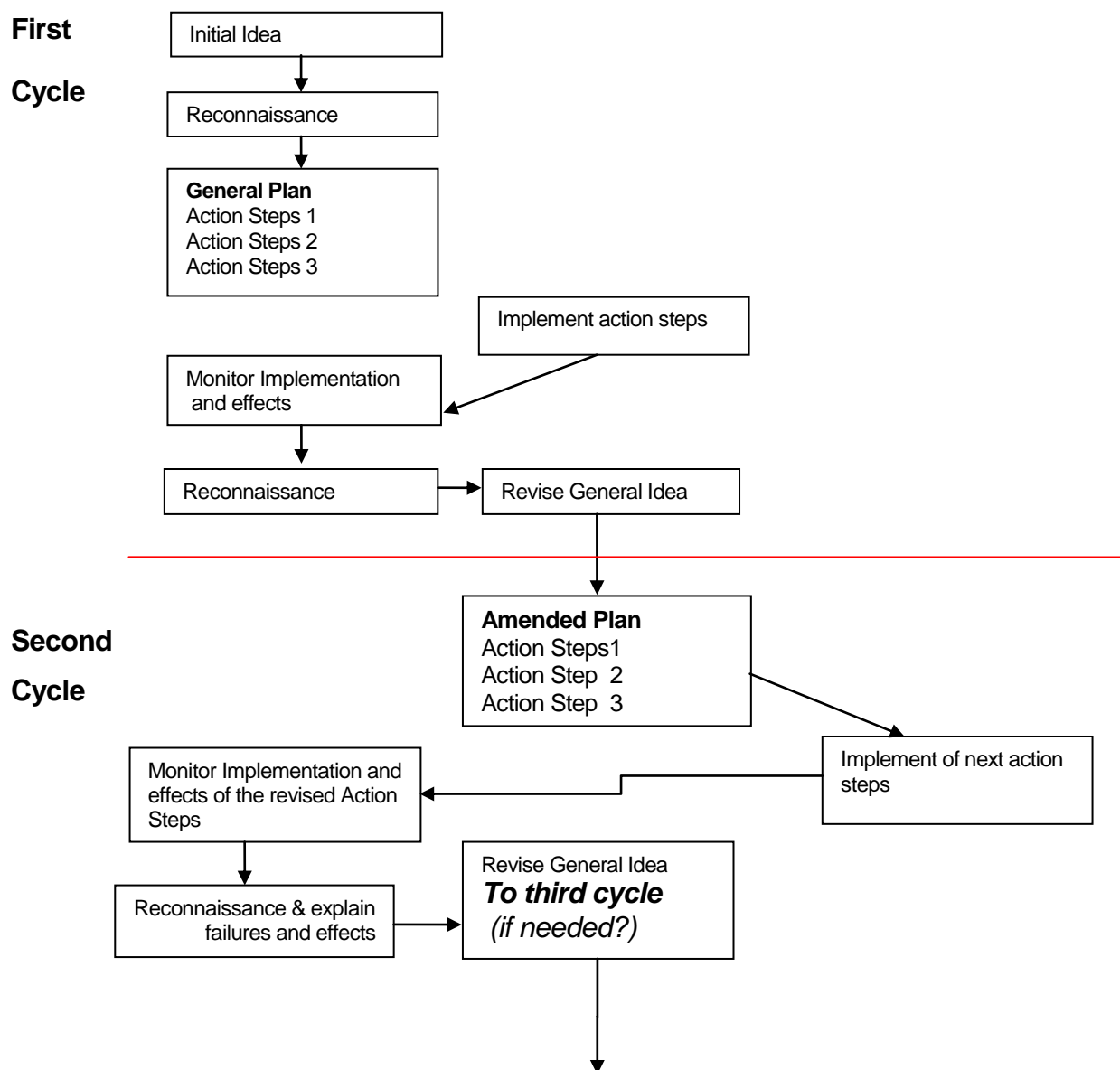| Reconnaissance & explain failures and effects | → | Revise General Idea
To third cycle
(if needed?) |

Fig 3.6   Elliot's Research Cycle 1991

81

O'Leary (2004) presents action research as cycles as opposed to spirals. He says: 'cycles converge towards better situational understanding and are based on evaluation practice that alters between action and critical reflection' (O'Leary, 2004 p.140). There is strength in Elliot's approach in addressing the general idea and the clarity regarding actions. I considered the best approach will be an amalgam of both.

The final model as implemented is set out later in the next chapter. but first I need to address the aspects of quality of the data acquired by an insider researcher.

3.8   Reflexivity

Insider research presents a paradox of the insider viewpoint intimacy due to time and experience contrasted with insights of an external researcher – the question being who can acquire the best data? Certainly, action researcher insiders have acquired knowledge of the organisation from being a player in the processes being studied. But that does not mean the insider researcher has an objective viewpoint to make observations; Johnson and Duberley (2000) argue that the researcher in management research has to address their meta-theoretical assumptions in organisational analysis. This is a key to a successful insider research activity because the very understanding of the research needs to be purged of underlying or intuitive understandings. A process of reflexivity is required to identify the insiders meta-narrative so as to understanding commitments which are a component of an insider's epistemology. The drawback is that it supposes it would be possible to step outside to carry out an audit and if that was possible with what framework could we apply that would not also be shaped by our meta-theoretical commitments? At worst it is circular and can end with a question as to what can ever constitute a fixed truth or outcome. Herr (2005) suggests that the tool of *triangulation* that is multiple perspectives by use of a combination of methodologies in the study of same phenomenon. Denzin quoted by Jick (1979, p.603) guards against simplistic bias or self serving. Use of different perspectives can also give a holistic and contextual perspective (Jick 1979). Mehta (2008) examines the positionality of reflexivity of the researcher as to what level of action as an emancipator for social change should they seek to bring about. This raises ethical questions of the purpose of action research. Should the research be primarily about contribution to knowledge as achievement or is it

about achieving change and how does that fit in with power relations if working with a community? Mehta suggests a potential addressing of the dilemma by considering the degree of involvement of the participants themselves she says:

> After all in an age of cynical reason we have to ask critical questions and need to decide more forcefully how to engage with the powerful and take the sides of the weak. At the same time we need to maintain pragmatism of hope. It is better to be a somewhat idealistic radical 'schizo' than an ambivalent or worse opportunistic one...
>
> (Mehta 2008, pp.248-250)

3.9   The philosophical underpinning of this research

The research is in my field of practice that is within English local government and the administration of statutory obligations to promote high standards and processes to attend to allegations about conduct of members of local authorities. It is within an environment that is by definition political. Views about standards are going to be expressed in terms of qualitative sources; that is definitions of standards and behaviours and the quantity will also be highly relevant. Nevertheless the primary issues are not open to numerical analysis though the occurrences will be. The world-view is that of the researcher operation in a description rich world of human relations. Bryman and Bell (2011) observe a dichotomy of social organisations as being seen as an objective entity in their own right with an existence and its own internal social order. This reality is detached from the participants. It is described as '*Objectivis'* (Bryman and Bell 2011, p. 21). The other side of the dichotomy is the proposition that the reality of the organisation can only be understood by the recognition that social phenomena and the meanings are established by the actions of those social actors who play their role in interaction with the organisation and that as a result there is a constant need for revision; furthermore what meaning is made will be dependent upon the researcher who may be a complete outsider at one extreme to an active participant at the other.

3.10 Consideration of the right research paradigm for this research

The research paradigm is defined (Kuhn 1970), (Bryman & Bell 2011, p 24) as a cluster of beliefs which for scientists in a particular discipline influence what should be studied, how the research should be done and how the results should be interpreted. The nature of action research is that it is to generate practical knowing (Coghlan & Brannick 2010) and in doing so there will be tensions with the traditional paradigms. The literature is not consistent in labeling, though a range can be identified from: the scientific tradition being the positivist /objectivist in ontology and epistemology approach; to the hermeneutic subjective ontology and epistemology and an emerging critical realism with pragmatic action (Johnson & Duberley 2000) that combines a subjectivist epistemology with an objectivist ontology. Hallebone and Priest (2009, p.45) prefer to establish the *critical* as a specific class of 'criticalist research' which is focused on producing real world theory. Whether it is a separate class or a division of hermeneutic is an open question. Coghlan and Brannick (2010, p.42) explain critical realism as requiring an epistemic reflexivity driven by an emancipatory self-reflexivity set by principles of democratic engagement and commitment to change, though it is questionable as to whether that stance can render an ontological foundation that is objective.

As this research inquiry is located within action research its underpinning must be consistent with the process adopted to gather data and make sense of it. The positivist and empirical realism paradigms are unsuitable because they are inconsistent with the requirements of insider action research that the researcher be involved in the observations of the phenomena they seek to study. The positivist paradigm is normally dependent on quantitative data acquired in a laboratory type environment. That mode of enquiry requires the researcher to be located outside the process and ensure that their presence does not affect the outcome; furthermore the positivist starts with a theory about why something is the way it is and setting experiments to test the hypotheses. This approach is called the deductive approach. Bryman and Bell (2011, p.16), warn that to see positivism as synonymous with science and the scientific is a gross simplification. They identify 5 key points (2011, p.15):

- Only phenomena and hence knowledge that can be confirmed by the senses can be warranted as knowledge

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- The purpose of theory is to generate hypotheses to test (deductivism)
- The knowledge is established through the gathering of facts
- That the science is conducted in a value free way
- There is a clear distinction between scientific and normative statements

Coghlan and Brannick (2010) set out the positivist paradigm as being of an objectivist world view fed by an objectivist collection of data to establish generalisable theory with a methodological reflexivity of a distanced researcher. The key challenge for this approach is the emphasis placed on data and on theory. So theory which does not lend itself to testing is by a postivist definition of less validity because it is not observable and so epistemological challenged. In addition the insider researcher is by definition an active player. Their reflexivity is closely tied up with the enquiry and indeed there will be little distance as the learning will be applied to the next action research cycle. There are two predominant schools:

- Empirical realism
- Critical realism

Empirical realism presupposes reality can be understood with the right methods though the risk of this approach is it is based on the assumption what is observed is the whole rather than the superficial. The empirical realism paradigm is based on a belief of there being a kind of objective reality outside the social constructed world. It is certainly true that there are taken assumptions in the world such as we have a general understanding of meaning of what words mean and assumptions about human behaviors and likelihood of responses. Critical realism is a response to attempt to reveal the natural order. It utilizes epistemic reflexivity focusing on the researcher's belief system as a process for challenging meta assumptions (Coghlan & Brannick 2010).

At the heart of the critique of the application of a positivism paradigm is the challenge of whether the relationships of individuals in social relations can be assessed by observation without resort to theory. That is to say can scientific principles apply to create a social science to explain society? It is said that an organisation can be seen as measurable with defined roles and outputs as an example the scientific management of

Taylorism (Taylor 1914). This perspective has lost credibility as exampled by Peter Drucker (see below) for its superficiality.

The hermeneutic (or phenomenological, Interpretivism constructivist or relativist) approach acknowledges the complexity of situations. It says the richness and quality of matters cannot be reduced to observations couched in generalisation with a view to establishing a predictive norm. Bryman and Bell make the distinction between the *explaining of behaviour* being positivist and the *empathetic understanding of behavior* which is the hermeneutic position.   Further on many occasions it is a single event which needs to be considered and examined for lessons and learning points to be established such as a train crash or perhaps a business failure.

The process of working to this philosophy is to explore the social world, to get the information data and evidence together and examine closely; seeking to find a theory to explain cogently what is going on. In other words developing a descriptive theory. The theory is constructed by the collecting of building blocks of hypotheses.   This process is commonly referred to as the *inductive approach*.

I now consider the *Ontological* and *Epistemological* aspects to this enquiry.

3.11   Ontology

The ontology of any enquiry will be based on the enquirer's world-view and a set of assumptions scientific in nature that define the reality as conceived and perceived by the researcher (Hallebone & Priest 2009, p.26). The term 'ontology' (or *ontologia*) was established in the early 17th Century, independently, by two philosophers, Rudolf Göckel, in his *Lexicon philosophicum* and Jacob Lorhard in his *Theatrum philosophicum* (Smith 2003). This view is the foundation of the thinking on which the research will be built. Its historical tradition is scientific in terms of what can be observed. So if the enquiry is related to a phenomenon all the necessary entities which would contribute to the event or series need to be understood and identified.

As an example Medlin (Medlin 2012) considered the ontology of a key Management writer Drucker and observed he saw enterprises as composed of individual human beings that were capable of changing and being active agents for change. The implication for this research is that the ontological position is not static. In the research area the data is not capable of being fixed as the components and the actors themselves are open to change. Quine (1948), makes the distinction that ontological positions will be located very differently depending on the enquiry so for the researcher there can be no outright fixed ontological position. Nevertheless the phenomenological standpoint can still be conducted systematically and with rigor.

Reason and Bradbury (2006) point out that the action learning by being emancipatory leads to new practical knowledge of use and that is still new knowledge. As this research asks the 'I' and 'we' it can be seen that there will be a multiple ontological position (i.e. the 'me' and how it will be applicable to the 'we') when the researcher is working within a participative action research perspective though within that perspective a number of key ontological assumptions will apply that is; the practice of salaried professional officials employed by a local authority managing the investigation of complaints relating to the standard and conduct of elected officials. The assumptions are that all the employed officials who provide data will follow their organisation's procedures and that they are consistent in their application. Furthermore, that the information they provide in terms of quantitative data is provided conforms to proper public administration and that qualitative data provided in terms of interview content is given by professionals capable of managing such data. As there is a legal responsibility under the Localism Act to investigate complaints that members have breached their code of conduct such data on complaints will be necessarily collated and there will be a professional commitment of the practitioners in that they will carry out their role and respond objectively to requests for data. However as they are employed and ultimately answerable to the elected officials they will manage the process with political astuteness (Manzie & Hartley 2013) and (Hartley et al 2013a).

3.12   Epistemology of the research

Ontology is said to be the understanding of the world and Epistemology the theory of knowledge (Coghlan & Brannick 2010). Hallebone and Priest (2009, p.26) describe epistemology as being a set of axiomatic assumptions that define how a knowledge about a particular view of reality from an ontology is established through acquisition of understanding and how it is used. This is contradictory as an assumption of a truth is a reliance on a point untested. McNiff and Whitehead (2006) define their understanding of the concepts of ontology and epistemology slightly differently (2006, pp.22-26) for them ontology: 'is how you perceive yourself relative to the environment and other people'. As a researcher traditionally you are an outsider. The impartial observer is a traditional position in social sciences because the tradition of science is repeatability of observations thus the need not to have the individual researcher affecting the outcome. McNiff and Whitehead then address their understanding of epistemology made from two components that is

- A theory of knowledge
- A theory of knowledge acquisition

They argue that epistemology is influenced by the researcher's ontology. However they assert a concern about the possibility of the application of the interpretive approach as epistemology can lead to action research being utilised as a form of performance management (McNiff & Whitehead 2006,). McNiff and Whitehead (2006, p.24) argue that *interpretive action research* has the researcher separated from the object of enquiry in doing so it is said to be anti-democratic and creates distance and prescription of a 'passive consumerist learning'. On the other hand their chosen *living theory action research* is said to be of care and compassion and concern for others to, as it were, make up their own minds. This is rather loaded language and could be lacking in plurality and tolerance for other forms. Reason and Bradbury provide a contrast as they conversely accept alternatives of knowledge grounding as they see a need to seek new epistemologies of practice (Reason & Bradbury 2006, p.3). Indeed Reason and Bradbury cite the Marxist maxim *that it is not so important to understand the world as to change it*. Furthermore Reason and Bradbury argue that as action research is a living worldwide movement no one person or community can claim ownership.

Hallebone and Priest (2009, p.27) address epistemology in slightly evasive terms. They state that a positivist epistemology '*will typically seek to*' with descriptive and predictive principles establish a reality independent of the observer by quantitative and analytical methods ; that a realist epistemology '*is likely to be involved in*' both describing and explaining with empirical observations of manifestations with empirical validated theoretical understandings of the construct of the processes and intrepretivist epistemologies '*commonly seek*' to describe social constructed realities and often proceed by use of language-based methods.

The epistemological challenge for this research is the question can different theories about acquisition of knowledge co-exist within the same research project? The answer is within the nature of the definition of action research; in that it is built on an orientation of enquiry rather than a methodology and this outlook embraces non-traditional research though with the specific intention of improvement of lives through better practice. Because there is an *inquiry-in-action* that is to say a review and reflection and application of the learning, the ontology and epistemology foundations are changing too during the action research cycles. Coghlan and Brannick (2010, p,42) consider this issue and align themselves with a form of pragmatic action and (Coghlan & Brannick 2010, p.43) observe that action research as a scientific approach does not have to justify itself to other approaches; it should be evaluated within the frame of action research as a form of research. It may be the reason that Hallebone and Priest sought to couch their descriptions because the research's justification based on logic and reasoning for the enquiry is at the heart of the methods used. This is particularly the case if a traditional understanding or conventional wisdom is going to be challenged. Though this research is not motivated by a challenge to conventional wisdom or long held belief it may well be over time that such a possibility emerges either through direct finding or through reflective practice. So to answer the question; yes a number of methods can peacefully co-exist but what does not change is that the academic methodology to establish the knowledge must still be rigorous. There is a caveat in that the methods must not be contradictory as there must be a dominant logic to the enquiry.

Nevertheless for the research of this enquiry the driver was the improvement of performance of practice for professionals and not simply to understand what is happening in practice. I ask 'how can I / *we improve…*'. Because local government

lawyers are all facing the same challenge of the new legislation (Localism Act), then the claim to knowledge is of best value if focused in terms of a broader applicability.

My ontology is influenced by my position. I am not remote from the subject matter by virtue of being a long term employee of one of the organisations which is in the process of implementing the new legislation. Thus the role of a *practitioner insider -researcher* is operating. The benefit is a sense of connection and value of being involved but the experience narrative will require care to be taken to ensure objectivity and to set aside assumptions and preconceptions. Furthermore because I am working in local government with colleague practitioners also facing the same challenges regarding implementation I can use that common interest in furthering the validity of the research so as to widen its application and broaden participation.

Participative action research is fused with insider research. This should be of benefit in terms of rigor and quality in terms of finding. Hynes, Coghlan and McCarron (2012, p.295) examine participation in health care and observe that participation can be political (Reason, 2006; Reason and Bradbury 2008) because the participants understanding is developed jointly rather than through the lead researcher alone. How much this will prove to be the case as a general proposition is to be discovered, indeed the excitement at the new research may fuel others to join the enquiry. Furthermore the degree of reflexivity by the participants will vary. This very shifting sand of what will happen to the participants may provide support to the observations that the action research epistemological picture will change and change again over time.

This research engages a first, second and third person inquiry (Reason and Bradbury, 2008). Reason and Bradbury observed that the practice of action research can be divided into three pathways that of:
- *first person action* - that is a researcher working on their own practice;
- secondly *second person action* - that is working face to face with another to address issues of mutual concern; and
- thirdly *third person action* - that is working across a whole body or organisation

These three pathways are engaged because at the early stage of the first cycle the practitioner researcher takes the initiative going out to engage with those closest to the researcher (second person) and once the invitation to take part is made there will be a broad range of engagement (third person) (Reason & Bradbury, 2008). The engagement will change with the first output of potential improvement points from the first cycle which will be applied by some in the third person which will lead to a re-evaluation of placement to second person.

These are not mutually exclusive, Reason and Bradbury observe that the three pathways can be used as a combined strategy. My design is shaped to ensure my practices for reflexivity relate to the pathway chosen (Marshall 2011, p. 254) a matter I return to later in this chapter.

3.13   The implication of insider research

In terms of a definition of *'insider researcher'*, I mean research by a member of an organisation who researches that organisation and continues to play a role in that organisation (Coghlan 2005). The research is by Reason and Bradbury's definition: *third person action research* (Reason & Bradbury 2008). Another way to define it is that the outcome of a timed encounter (which will be longitudinal) within a designated research programme within the organisation to which the researcher belongs. It does mean that the researcher is inside the situation, and so will inevitably influence what is happening by their presence (Mc Niff 2002). Mc Niff addresses this problem and says, 'You can however produce reasonable evidence to suggest that what you feel happened really did happen, and you are not just making it up.' So to make any claim to knowledge there must be some evidence. She continues,

> They might suggest that you need to look at the research again and gather further data, perhaps, or tighten up the link between your data and your criteria. Once you have other people's validation you can say in all honesty, 'I am claiming that I have influenced this situation because I started looking at ways in which I could improve what I am doing, and I now have the endorsement of other people to show that what I say I am doing constitutes a fair and accurate claim'.

The involvement of other practitioners in my research design (the 'we') helped to counter balance the risk of an ontological 'closed universe' because the participative action relates to fellow professionals carrying out the similar forms of practice in other organisations. Action research has its own self-testing by being within cycles. So cycle one for this enquiry commenced with the identification of the research, that is the new complaints regime introduced by the localism legislation. As the localism legislation is not about a national prescribed framework, rather about finding what suits best each council in terms of governing their organisation, the Government states:

> though the levers of power are now in the hands of the Coalition Government, ministers must resist the temptation to tinker. The answer to overbearing bureaucracy is abolition, not reform. This is the approach taken in the Localism Bill which will scrap several instruments of top-down control **...**The Standards Board regime – The Bill will abolish this costly, centrally-imposed regime, allowing councils to devise their own regimes to govern propriety and behaviour and empowering local people to hold their elected representatives to account

> Decentralisation and the Localism Bill: an essential guide DCLG 2010

The draft Localism Bill set out abolition of the entire standards regime. The DCLG announced:
> ...The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.

> Abolition of the Standards Board regime DCLG December 2010

The intention was to leave it to a mixture of creation of criminal offences for abuse of position for gain, a right to complain to an ombudsman and the implied sanction of the ballot box. It assumed that the voters would vote out a poor councillor.   However the Localism Bill changed in the final draft. The early intention of abolition of the national code of conduct and giving councils the freedom to devise codes of conduct if they chose, changed in early 2011. This appears to be due to strong criticism from the CSPL publication of a submission to the Public Bill Committee stage that it would be a 'backward step'(paragraph 7.) not to have a code to set boundaries and that it should be

built around the Nolan principles of the seven principles of public life. The Government relented and in the House of Lords an amendment of Section.27 of the final Bill made it a requirement to establish a local code according to Nolan and a means of dealing with complaints. How a relevant authority did it was entirely up to them. So the regime had no prescribed route other than a model code which was published in April 2012[35] just weeks before the date the new regime would come into effect. As the Localism Act would be legally effective on 1 July 2012 it meant that relevant authorities had to adopt a code beforehand. So by the time the model was published [36]it was too late as councils had already started the work of getting local codes ready. The Localism Act thus presented a challenge to practitioners in that they found themselves with the duty to create a local standards regime with no guidance as what would be best practice in a matter of months. It was not surprising that as a result there was a tendency to base local codes on the old mandatory regime and so it was not really local at all. In doing so the principle of localism was diluted. This contributed to the anger that manifested itself in the *16 January 2013 Westminster Hall Debate* described in chapter 2.

In the absence of national leadership by government, only by research can best practice be identified collated analysed and disseminated. The challenge for professionals is to work together to improve governance by carrying out a systematic assessment of the new ways of working and by working with others facing the same challenges there will be a richer source of information to inform. The positivist paradigm philosophy is not suitable for this work as it is about testing hypotheses whereas the research question is asking *how do I / we improve practice?* It is about building on what is noticed and found and applying it to the real world practice. The first cycle of an action research programme is about getting a picture of the issues which will involve collection of information in difference forms. As an example the number and type of complaints is a quantitative measure. Furthermore the setting of the scene in terms of acquiring data to find out where all the participants are at a point is a democratic act, as all were invited to give a return in terms of figurative data though tempered with the diversity in terms of how the complaints are managed which required the component of local description to assist in assembling the meta-description. This required qualitative data acquired through interviews and other techniques for drilling down to information rich seams of local

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[35] *Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity,* DCLG, 11 April 2012.
[36] And an equivalent devised by the Association of Local Government also in April 2012.

knowledge. Because the action is composed of cycles feeding back the findings to be applied the participants have an involvement in validity. The first cycle enquiry of how the complaints are managed is considered by an interpretivist measure of effectively a case study with an output applied to the second cycle which is a further case study of the application of practice improvement steps applied. The practice improvement steps are specifics, not a form of trial and error (McNiff & Whitehead, 2009).The merit of the participant action research is its application can be test bedded across other organisations.

The method used must be consistent with the research paradigm (Hallebone & Priest, 2008). The world of local politics is highly complex with persons maybe wanting the same thing but with a different political perspective or with the same perspective wanting to achieve something quite different. The complainants also have a range of perspectives from a sense of injustice to obsessions and possessions of overvalued ideas pursued with an irrational zeal. Furthermore complainants are subject to many variables such as (and not limited to): age; gender; health mental and physical; emotional maturity; class; cultural background etc that an examination could not be carried out without severe limitations to the positivism approach, nor could events (as any research episode is) be reduced to a formula capable of being reproduced. This does not mean that some of the research cannot be carried out using an objectivist technique nor that some data acquired by means of quantitative techniques cannot help with the research because it will still have value. The quantitative information contributes by having an impact in terms of measuring the size of complaints, time and resources which are valid element of the research; nonetheless the techniques of practice to impact in this research are established by interpretivist research paradigm.

The realism approach acknowledges the short comings of the postivist approach but it is burdened with a view that there is some objectivity outside the events themselves, it has a connection to a degree with positivism indeed the critical realism is classified by some as 'post-positivism' (Guba & Lincoln, 1989) and though it could be said the 'realism universe' is a construct too and a distorting lens in its own right, and to a degree its results depend upon ideological standpoints.

3.14 The benefits of the interpretative approach as lead

The complaints management process under the Localism Act is at a local level and so subject to many local factors. As there is no paradigm each complaint is a unique event; to learn what is the most effective way of managing complaints and improving standards will need a systematic analysis and feedback process. It is inevitably a construct but the picture is built up from a broader range of elements and there is an information rich source to inform the creation of theory. It is important to flag up there is a risk of a number of misguided perspectives from the actors involved amounting to the creation of theory based on misunderstanding. This can be reduced through academic rigor, scale of sampling and triangulation. Guba and Lincoln (1989) propose that there are four constructs of credibility: *transferability*; *dependability* and *conformability* which aid the trustworthyness of the research and fourthly as the research is about improvement of practice there is the *observability* of the practice improvement when they inform the enquiry's substantive issues and the contribution to quality built into the findings. From that data it is possible to develop observations and findings capable of being typifications of effective practices explained by practitioners to feed into the learning cycles. It therefore follows that the research is lead by an interpretivistic and inductive approach.

Reason and McArdle (2004) in their paper *Action Research and Organisational Development*, published in the *Handbook of Organisation Development* (Ed Cummings 2008) considers how action research can contribute to organisational development and the challenge of application. Their key point is that action research is not a methodology but an approach which shapes methodological practices and so it is about making choices which will be different in differing circumstances. They observe that if action research is used by an organisation development practitioner, then the quality of the work will hinge on: the choice of method; the reasons to yourself and others for that choice and ability to explain it to the world.

3.15   Consideration of forms of reflexivity

The reflexivity concept is key to the research question because it is examining issues from a practitioner's viewpoint. It describes the approach the researcher needs to take in terms of acknowledging their role in the research and the implications for the contribution to knowledge of their presence (Bryman & Bell 2009, p.698). It goes to the root of validity and rigour. The design has to take account of the special steps to counter the potential lack of objectivity of the insider researcher. Johnson & Duberley (2000) argued that the researcher in management research has to address their metatheoretical assumptions in organisational analysis because of the assumptions the insider has about culture and practice of their host organisation.

To address this issue Herr (2005) proposed the tool of *triangulation* that is multiple forms of sampling and combination of methods in the study of same phenomenon. Koshy observes: '*sharing data with critical friends and triangulation would ensure the quality of what is gathered is robust and without bias*' (Koshy 2005, p.30)

The effect of the researcher as an influence is a fundamental concern with interpretivism. As the question is 'how can I / we improve' there will need to be a continuous audit of how is the researcher influencing the research? This is of particular concern with participatory action research because the researcher is an insider and the group he is working with is also insiders themselves of their own practice. This concept is closely tied up with the postmodern critique that how things are described and written up can mean what is said is a choice and what is not said is also relevant. Techniques have been developed to counter the risk to validity of the researcher affecting research. Giddens (1976) talks of the personal reflexivity as being 'self-awareness'. As well as the personal there will be the potential for the field of research to have its own assumptions and *'taken for granted'*. Ajawi & Higgs (2007) observe that it is a dimension to be considered in both the design and implementation of the research. Koch and Harrington (1997) identify a number of different approaches to the reflexivity required to ensure account is made of the researcher, that is the use of reflexivity to maintain objectivity by a reflective journal and described as *'bracketing'* .This has a close connection with Edwin Husserl's concept of the process of phenomenological reduction by division of the process into reflective stages of pre-reflective preparation followed by reflection during evidence collection and

post action; the second possibility is *epistemological reflexivity* which requires the researcher to reflect upon the assumptions made in the course of the research (Gadamer,1989) in the form of a dialogue (philosophical hermeneutics) where pre-judgments are considered to being of value (Dowling 2006); thirdly we have reflexivity from *critical standpoint* , this form of reflexivity calls upon both interpretive Gadamer philosophy with a Jurgen Habermas philosophical critical paradigm. However it has been found to present problems in terms of the researcher's ability to command language to work to its strictures and can become disempowering particularly where there are different status relations (Manias & Street 2001) and fourthly a form of 'positioning' also termed as 'politics of location' such as feminist research which places a value on the gender of parties or a similar approach could be adopted for sexuality.

For this enquiry a form of participative action research is utilised, the preferred method of reflexivity (Coghlan & Brannick 2009), being the *epistemic reflexivity* working at exposing interests and emancipation through self reflection. The reason for this is that the research question asks about a local regime of complaint investigations regarding local government politicians who are being held to account for their actions according to local and national standards otherwise than at the ballot box (that is not being re-elected). As chapter two showed there is by no means any consensus as how Localism should work and the practitioner as investigator is not just investigating their practice they will at the same time be investigating as fact the complaint itself.

3.16   Ethical consideration of research design, data collection and analysis

I started with the mandatory requirement that the research data must be acquired through a robust ethical process. London Metropolitan University requires that all post graduate research requires a completion of an ethics form to be submitted to the Chair of the faculty's Research Ethics Review Panel. This stance is described as 'universalist' (Bryman and Bell 2007), that is ethical precepts should never be broken and any breaches are damaging to social research. This consideration is absolutely crucial for this research because it asks how standards and governance may be improved, so such an enquiry must be of the utmost integrity.   Ethics commences at the planning stage and formed a significant part of the literature review for the thesis. Key issues that arise in this design are:

- Assessing harms and benefits

- Respecting confidentiality and privacy

- Selecting participants

- Requesting consent

- Publishing and disseminating findings

- Considering the impact of research reports on policy practice or public opinion

Harms and benefits

The research seeks to establish a contribution to knowledge through finding out what works and sharing the management changes as such there is no question of any element of deception. Harm is defined as *'physical harm; harm to participants development or self-esteem; stress; harm to career prospects or future employment'* Diener and Crandall (1978). The risk of harm is unlikely however this section considered the risks and mitigation steps. The research considered making change and bringing about improvement; involvement of a group of participants does require specific consideration. Gaventa and Cornwall (2001) in Reason and Bradbury Ed (2006, p.71) point out that participatory research has long held implicit notions of power. Earlier in this paper we saw the Ministerial concerns that the implementation of localism within some authorities had led to a view that employed officials were in effect bullying elected members (Hansard 16 January 2013 ref 309 WH). It is a vital ethical consideration that this research should seek to advance the democratic element of local government rather than create a greater imbalance. Granventa and Cornwall also highlight that while knowledge is power it can have positive aspects that is it need not be a *'zero-sum relationship in which for B to acquire power means A giving up some of it'* (Reason and Bradbury ed 2006, p.71). It will therefore be a key consideration that the research findings are presented in a way that improves the balance of power towards the side of democracy.

Confidentiality

All participants unless they expressly agreed were reported with anonymity. There was no call for recording personal information and as working with other legal professionals in the public sector we are all familiar with the responsibility for managing sensitive personal

information as required under the Data Protection Act 1998. The interviews were carried out in a work setting in separate rooms where the questions and replies could not be overheard by third parties. The Interviews were electronically recorded and kept on a password protected archive. Bryman and Bell (2007, p.129) state that it may be not possible to keep a company anonymous such as for example Hofstede's research on IBM. In this research, the researcher was working with a group of practitioners who potentially wished to share in letting it be known that they took part in promoting good public administration.

Selection of participants and their informed consent

The participants selected were officials working in or with the public sector as office holders or consultants. They worked in the area of governance, standards and the administration of investigation into complaints. These roles are held by responsible adults and are unlikely to be vulnerable in terms of being influenced to the detriment of their interests. Nevertheless the participants are living people and their full informed consent was obtained. This required a full explanation of the purpose of the enquiry in clear understandable terms making it clear that it was a voluntary process which they could withdraw from at any time for any reason. London Metropolitan University (Ellison, G) provides guidance on Informed consent and provides that the following should be provided and documented:

- Name and contact details of researcher
- Name and contact details of participant
- Aims and objectives of the research project
- Role of the participant in the research project
- Treatment of material/information collected
- Potential risks to the participant
- Sources of advice/help/support/treatment
- Voluntary participation and freedom to withdraw
- Signature and date of researcher and participant

These details are kept confidential. The seeking of informed consent is the first part of any interview and Informed consent will normally take the form of a written documented agreement with signature. This formed part of the notes of the interview.

<u>Legality matters</u>

As part of the ethical consideration there was the need to consider whether the research would be likely to lead to the disclosure of illegal activity or incriminating information about participants, the answer here is no. While the research was considering the issue of complaints, this enquiry was about making practice better as opposed to delving into specific issues of criminality. However such matters could not be entirely ruled out[37]. Should a matter of risk to a third party or harm emerge in the first or following cycles it needed special consideration. The British Society of Criminology provides specific advice in its code of ethics (Rule 4(iii), 2005) that the welfare of minors and the vulnerable is paramount and such matters override any issue of confidentiality. As a practicing solicitor I am subject to an enhanced Criminal Records Bureau[38] check.

<u>Effect of research on participants</u>

There was no reason to believe there would be any harmful effect or cause for distress. This was work that would improve practice and create better professional approaches and so any reward would be about a greater sense of fulfilment in practice. It was not envisaged there would be any conflict of interest as there was not any call for any disclosure of personal or financial information that was not otherwise accessible by Freedom of Information Act requests. A letter of introduction was used setting out the reason for the enquiry and raised specifically at the commencement of interviews. There was no use of information acquired outside the United Kingdom nor was it considered likely there would be any potential for international repercussions or compromise of any participant with a foreign government of interest.

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[37] I experienced in researching a dissertation a disclosure of potential illegality by participant who had witnessed an issue of ill treatment of a patient. In that case I urged the person to report their concerns to the Authorities. I further reported the matter to the Safeguarding board operating at the time.
[38] Now know as the Disclosure and Barring Service.

<u>Other ethical considerations</u>

- Effect of publishing - The publishing of research involving live people could potentially lead to them being identified and have an effect on their reputation. However it was not intended to hold poor practice or behaviours to account. The intention was to inform improvement so the risk would be low. Factors which reduce the risk further are now considered. As the information and data was collected through published statistics and face to face interviews, the ethical aspects were likely to occur more in the latter. As a practice of openness the participants were told what the information would be used for and they would be given an opportunity to comment on findings and observations. Furthermore the research design ensured that any details which could lead to identification were coded so it would not be possible to determine the identity of individuals in the published work and that too would be made clear at the consent stage.

- Specific ethical analysis for the entire process of data collection and analysis breakdown of the different stages in an ethics review will be considered within the scope of design.

3.17 Specific ethical issues for the researcher

As the research concerns a controversial area of the researcher's employment, agreement was sought to maintain confidentiality to ensure that directly known participants could express their views and opinions without the risk of compromising themselves. As with other participants, questions and answers were not presented in such a way as to reveal identities. The assurances on ethical issues documentation is set out in the correspondence and can be found in the appendix to this paper. The insight into power relations and participants raised specific issues about whether my practices were enactments of power. This is because over time the researcher will acquire power through acquisition of knowledge and likely to know more than the participants who could be used to the researcher's reward or their disadvantage.

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Chapter 4 – Implementing the research design and methodology

4.1 Introduction

This chapter is about describing the final action research plan and its implementation to achieve the objectives of the research question to improve practice with regard to implementation of the promotion of high standards of conduct as required by chapter seven of the Localism Act. From the commencement of being tasked with this role I determined that the plan would be to follow the requirements set out in the Localism Act and tackle the issue by putting an emphasis on the duty to promote and maintain high standards as in doing so this was likely to reduce the net number of complaints.

The research had a time horizon of a longitudinal perspective that is to say looking backwards in time from 2010 to the moment of the introduction of the localism legislation in spring 2012 to present (2015). As the research involved more than one cycle it was important to build in reflexivity and rigour because each stage was built on the previous. The requirement of conducting research ethically meant that the rigour was not only for the sake of the validity but more importantly ensured the ethical considerations were fully addressed which was only possible by the researcher being very clear as to the implications and risks of each stage of the cycle. The relationship should be a form of social contract with the participants.

4.2 Pulling it all together - the final design

The design had to take into account the *we* element that is the practitioner's element and so the Cumming and Worley diagram (see fig 3.5) will be utilised within the action research cycle and the Elliot (1991) (see fig 3.6) approach of a reconnaissance and review of the general idea at the end of the cycle. I thus created a design as set out

Meta Cycle Interactive Journal of Reflection

Updated as research progress

feeds from and into each stage

First Research Cycle

Stages 1,2,3,4 to 5 'Pre-Steps'

1
Problem Identification

2
Consultation with specialists – literature review

3
Quantitative Data gathering and Preliminary analysis

4
Feedback to group and key contacts

5
Joint diagnosis and fashioning of thematic concerns

6
Joint action to find out from professionals their experience and practice through face to face semi-structured interviews

7
June – November 2013 Implementation of join action

8
Use the interviews as means of passing on what has been learnt as go And the effects of the Steps

9
January 2014 Reflection & explain failures and effects with feedback session

Note: at this point it deviates from basic *Cummings & Worley* with a feedback session with participants where further action is determined

10
Revise by pooling of cumulative *refection* understandings to take account of findings and feedback & develop new action plan

Production of draft for publish / Doctorate submission

(To Second Research Cycle)

Fig 4.1   design

Meta Cycle Interactive Journal of Reflection

(From First Research Cycle)

Second Research Cycle

10
Amended action plan
Action Steps1
Action Step 2
Action Step 3

11
Implementation of action steps

12
Monitor Implementation
and effects of the amended action plan
steps

13
Reconnaissance & explain failures
and effects with
feedback session with participant

14
Revise understandings and knowledge
to take account of findings and
feedback & develop new action plan
Revise understandings and knowledge

Production
of post
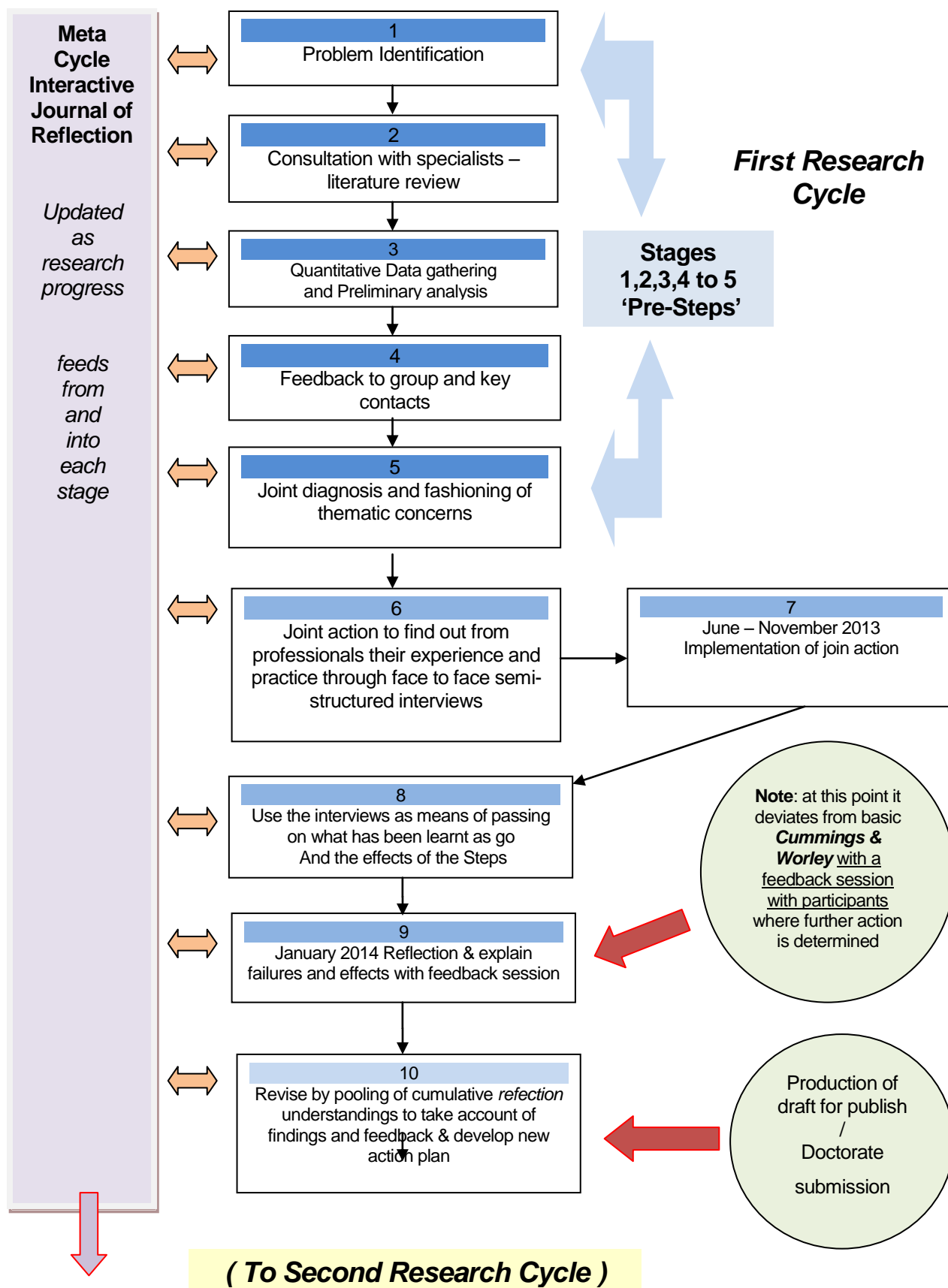Doctorate
paper to
publish
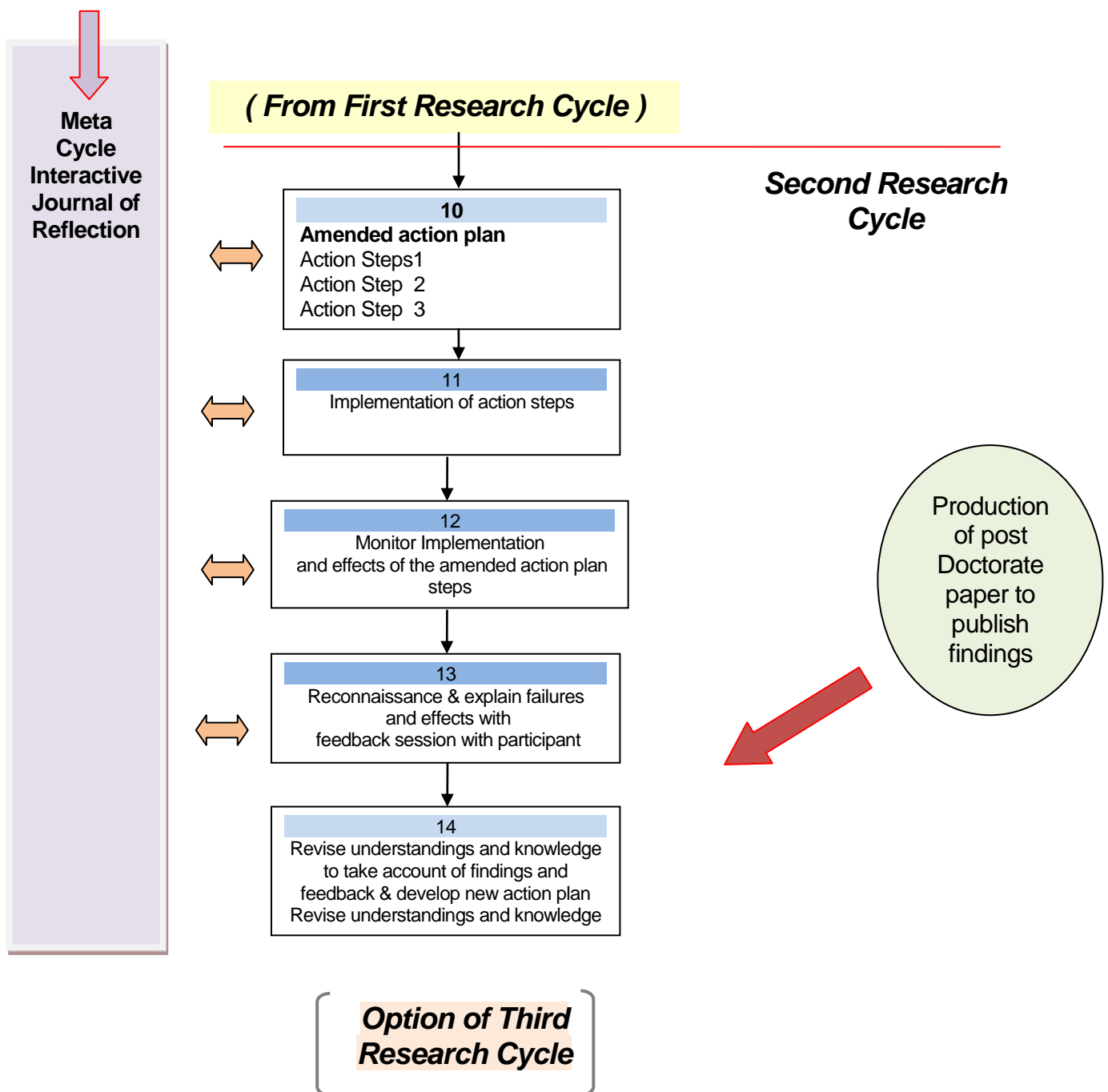findings

***Option of Third
Research Cycle***

Fig 4.1 Design Con't

Thus my design utilised Elliot's method of revising the ideas with the Cumming and Worley method. The reason for this approach was to avoid the artificial element aspect of Kemmis method in the assumption of there being a clear demarcation of the spirals. I at the same time acknowledged Elliot's identification of the ideas and position that will change over time.

4.2 The timescales for cycles – action and reflection

Coghlan and Brannick (2010, p.15) argued that a good action research project needs a good story, rigorous reflection on that story and a usable contribution to knowledge from the reflection. The research plan on the preceding pages had two time lines running to the right the research plan and to the left the reflection process. The plan also has reflection built into the right side.

Action research by its cycles has an effect in terms of timescales and needs reflective time to be programmed in or the learning will be incomplete or even lost, (Trehan and Pedler 2009). Furthermore researchers may not accurately calculate the duration of a cycle until more than one has been concluded as well. Coghlan and Brannick (2010) observe that in any action research there are likely to be several cycles all moving at their own speed. They liken it to a clock with three hands all moving forward but taking different times to get round the dial of one minute for the second hand one hour for the minute hand and 12 hours for the hour hand. The reflective cycle has its own stages of self-reflection self-management but unlike the cycles may find itself going backwards looping back from times in the future making more sense of what happened in the past. Coghlan and Brannick (2010) and Reason (2002) consider Heron's (1996) metaphor of *Apollonian* and *Dionysian*[39] [40]approaches to assist understanding. Heron explains the *Apollonian* cycles are linear, rational and systematic, whereas the *Dionysian* is an imaginative expressive approach. My approach was directed toward the *Apollonian* standpoint in the sense of trying to provide feedback as to progress and findings in a regular flow

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[39] Two Greek gods; sons of Zeus. Often used as a dichotomy. Apollo is reason and Dionysian is a degree of wildness.

according to professional special interest group meetings and so are more in tune with the need to produce research accessible to fellow legal practitioners.

Reflection timescales

Coghlan and Brannick (2010, p11) observed reflection must include an enquiry into the cycles themselves. It is described as being: '*reflection cycle which is an action research cycle about the core action research cycle'.* They cite Zuber-Skeritt and Perry (2002) as introducing the terminology of the '*core action research cycle*' which in turn forms the *'thesis action research cycle'.* This reflection on reflection, Coghlan and Brannick argue is central to the development of actionable knowledge (Argyris 2003) and identified as learning about learning (meta-learning).

Mezirow (1991) identifies reflection to take three forms that is:

- thinking about the issues;
- the process and finally
- underlying assumptions and perspectives.

This reflection is *critical reflection.* This is defined as the: '*... means by which we work through beliefs and assumptions, assessing their validity in the light of new experiences or knowledge, considering their sources, and examining underlying premises'* (Cranton, 2002, p. 65).

Frames of reference and basic assumptions need to be challenged and re-jigged to take account of the data and its implications. Cranton observes, *'If basic assumptions are not challenged, change will not take place'* (Cranton 1994, p. 739). Coghlan and Brannick emphasize that the meta cycle learning is a vital key component of the academic dimension of the work and both the research and the reflection must be subject to the same rigour. Furthermore the reflection will be operating at several levels in that not only will the practitioner be carrying activities and actions but those involved in the collaborative process of fellow practitioners will also be affected. This needs to be recorded too. Thus the second cycle is likely to look somewhat different from the first in terms of ideas about the issues. This is why I elected to utilise *Elliot's* scheme over *Cummings and Worley* at point 10 of the first cycle to take into account the new ideas shaped by reflection. This needs its own method of recording which uses a field journal to follow each stage in the form of containing key episodes and reflection.

4.3   Data collection

There are two relevant techniques namely:

- probability or representative sampling; and
- non-probability or judgemental sampling.

It was not considered that probability sampling was suitable for this research, because of the element of subjectivity in the nature of defining quality and the scale that would be required in terms of sampling frame. This would have lead to choices being made about what would form the defined sample, what would be the success rate in terms of response and how much generalisation could be made. Apart from the question mark of objectivity such an approach would have been too resource intensive and time hungry.

Research on the managing of complaints of local politicians needed information rich evidence which could be acquired by a technique referred to as a non-probability sampling using a purposive/ judgemental sampling. In terms of defining an ideal population, it would be all those persons who are or have been stakeholders in the complaints process. Obviously this figure to be assessed by a census would run into thousands of people and was beyond the researcher's capacity. The key challenge being, that while complainants would apparently be informative their ability to be objective was limited and timescales plus resources meant the enquiry must be limited to that of the practitioner's perspective. Thus I selected employed officials of local authorities. I sought out those persons who knew at first hand the matter of complaints against councillors. This avoided the unnecessary hit and miss of a random sample or cross section or probability sample. Instead the selection was driven by the purpose to select those in possession of the data and insight to inform the research question. The aim after all in this research was to establish quality information rather than quantity to inform the enquiry. This focusing was likely to lead to a variation in terms of experiences but it may also indentify core elements and shared outcomes (Patton, 2002).

The purposive technique adopted allowed a degree of focusing and selection of sources who were likely to provide well-informed responses to the research enquiry.

Purposive sampling is a tool which can give insight on smaller samples and is a form of non-probability sampling where the criteria for inclusion in a sample is defined. My sample was based on those local authorities with members voted into the role by citizens rather than being co-opted or appointed by the authorities. The research questions were considered precise for a small sample as the numbers of persons who could provide evidence were those who were engaged in the administrative managerial and legal roles in the local authorities. As the research questions related to the issue of improvement of practice it required co-operation with those persons who were in a position to reflect upon their involvement and comment upon the process and what steps they would take to make a more effective management of the complaints process. This directed my sampling frame towards:

- Heads of legal and democratic services
- Monitoring Officers and investigators
- Chief officers

Office holders in those roles are able to comment upon the complaints process and the questions identified following analysis of the pre-step stage of the action research.

This was considered to be best achieved by the use of semi-structured interviews tailored to the individuals involved. These were a series of questions in a form of guide to give latitude for development of themes to allow greater content and opinion and ability to bespoke the individual's personal knowledge and follow up questioning on significant themes that emerge (Bryman & Bell 2011). The key advantage of this approach is its flexibility which enables respondents to develop their perspective and produce information rich comment.

Identity of participants

As observed the participants were officials working in or with local government either paid (officers) or acting on a consultancy basis. There can be a difference in perspective if their role is short term as there will be less need for them to establish bonds and they will be less of an insider but also less susceptible to organisational politics and culture. The participants were chosen because of their working in the area of governance and the administration of investigation into complaints. In particular the question is how do 'I / we'

improve practice and requires working with fellow practitioners. They were professionals and either:

1. <u>Qualified lawyers</u> - as working with elected members is working with the political leaders of the organisation. These lawyers will tend to be senior in terms of professional experience, as these matters are by nature sensitive and confidential and require a level of competence acquired through training and practice

2. <u>Other officers</u> - these being senior professionals such as CIPFA[41] members skilled in the management of committees meetings and Councillor support including trading

3. <u>Directors and heads of services</u> – these officers work with elected members on a day to day basis and accumulate much experience in managing relationships with the Councillors.

These roles are held by responsible individuals and were able to give full informed consent. The participants assisted in the collection of data through response to questionnaires and then selective interviews providing quantitative data to assist in the collection of qualitative data.

4.4   Acquisition of quantitative data

As the research asks about improvement of practise with regard to governance and complaints a necessary step was to get a picture of the historical situation before intervention work commenced. As an insider researcher I am familiar with my organisation which as a matter of public administration records complaints against members. I interrogated the statistics as quantitative data. Furthermore to address the challenge of improving practice I carried out additional quantitative data acquisition from other local authorities.

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[41] Chartered Institute of Public Finance Advisors

The information sought was designed to set out the picture before the Localism Act came into effect (July 2012) by getting figures in terms of complaints for 2010-mid 2012. This gave a starting point. As observed the research had a participative action research component and it was the intention to get the organisations to willingly get involved in the process as it would improve their practice. Easterby et Al (2012, p.3) observed that as management research touches on political areas, it requires access to senior management. They in turn will need to be convinced of the potential benefits for the organisation and that co operation is worth the time invested. The benefit to them was the acquisition of value ; that is to know more about practice and how their organisation is benchmarked. There are then two clear reasons for willing cooperation that is the professional improvement impetus and the requirement for openness which is part of good administration.

Use of the Freedom of Information Act

Raw quantitative data was acquired by request and when there was a slow response by utilising formal requests to local authority information management teams using the Freedom of Information Act 2000 ('FOIA'). The FOIA requires public authorities to make disclosure on request unless it is within an exception. Information regarding complaints against elected members should be readily available on request. This was readily available as the number of complaints received in a year would be a key performance indicator to a statutory standards committee.

In terms of building good relations it was the tactic to restrain the wielding of formal FOIA requests so that the data acquisition can be acquired through co-operation and appealing to the improvement of practice commitment of the professional.

4.5   Selection of a suitable sample body – The Public Law Partnership

In preparation for the *pre-step* and *constructing* (Coghlan & Brannick, 2010) of the first cycle, I needed to select a group of professionals who would welcome the research into improvement of practice. Enquiries were made and it was established that at the time the

researchers own authority was a member of a consortium composed of 27 local authorities which operated across three counties[42]. The consortium is called the Public Law Partnership (PLP). It was formed in 2008 and has evolved into a partnership of the legal services of 15 local authorities in Essex, Essex Fire and Rescue, 8 Hertfordshire District Councils, Hertfordshire County Council, Lee Valley Regional Park Authority and Suffolk County Council plus one London Borough Council. This was considered to be an ideal group to work together with as they were all fellow professionals who all have to work to the Localism Act deal with complaints against elected members and likely to encounter the same challenges. They all thus face a *thematic concern* (Lewin 1951). While preparing the research design I took my research proposal to the PLP Management Board in February 2013 as an item and agreement was given to participation and co-operation. The work commenced by acquiring evidence of the first six months of the new regime in terms of complaints and other qualitative data. It was of significant value to PLP as there is no national data collection initiative. The data was collected on the understanding that it would be disclosed to all participants. A reflective process took place analysing what the data revealed and that was presented to the participants. This established credibility of the commitment to research and facilitate the establishment of a constructive dialogue with benchmarking groups in local government and journals enabling a successful response to approaches seeking qualitative data.

4.6   The acquisition of qualitative data

The research design acknowledged it would involve time in acquiring the information and further involve time and resources of the participants. By establishing credibility with the successful acquisition and dissemination of the initial quantitative data, the likelihood of co-operation in qualitative data was improved. The contact correspondence was drafted in a positive frame expressing the beneficial outcomes for the participants in terms of improvement to practice.

The quantitative data acquired from the requests provided information rich data to assist in framing the questions for the qualitative data acquisition that would follow seeking to find out why the data took the form it did.

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[42] PLP's geographical span has changed since the time of the research and now includes Cambridgeshire.

Further evidence was adduced from published information by professional bodies the *CSPL* and published secondary data from external audits including the *Department of Local Government and Communities*. This was supplemented by the academic journals and informed comment by specialist newspapers for example the Municipal Journal and the Local Government Chronicle.

The *CSPL* most recent report (14th January 2013) expressed concern as to the new regime and as part of the process of enquiry I made contact with them for further observations to establish their evidential basis for concern.

As the research needed to examine the views of persons with experience of the former Standards Board for England regime and the resulting local investigation of complaints the ideal interviewees were those who had experience of the pre and post local investigation regime.

Data quality issues

With precise request design the Freedom of Information requests yielded sound quantitative data as the local authorities as a matter of practice report complaint numbers and outcomes to their respective standards committees.

Because of the use of semi-structured interviews, there could be a question of the reliability, particularly when the participants were close to the research work. Easterby-Smith et al (2012) set out a three point test; in that it is asked will the measurements yield the same results; would another observer make the same observations and transparency with regards to raw data.

In terms of analysis a technique recommended by Dick (2003) following the classic grounded theory approach (Glasser & Strauss 1967) was applied. Dick (2003) argues that action researchers can learn from grounded theory. Grounded theory he suggests, can be of application in action research as the approach has a quality of emergent methodology. This is because as the research proceeded the understanding will increase through an iterative process rather than the testing of hypotheses. Glaser

summarises it as, 'a general methodology of analysis of data linked with data collection that uses a systematically applied set of methods to generate an inductive theory about a substantive area' (Glaser 1992, p.16, cited Evans, p.37).

Dick (2003) explained that the Glaser rather than Strauss's approach is more grounded in the materials and so more applicable to action research.
There are four elements of the process (Dick 2003, p.65):

> *1. the data collection – for example interviews;*
> *2. the noting of the contents of the interviews*
> *3. the coding the contents into categories; and*
> *4. the memo stage of writing note on the connections between the coded categories*

The grounded theory approach is designed to establish a *core category* of central concern to the parties involved, so for this research it was on the nature of localism anchored complaints against elected members. However there is an important difference between grounded theory and action research in that action research places weight on the taking of participative action as opposed to theory creation by the researcher. As the research was action research its purpose was about seeking what can be learnt and so have value in terms of improving practice. While it asks '*how can I / we improve practice?'*, it was not intended to produce a theory applicable to all types of practice challenges, though it will establish an early picture. Clearly there can be a risk of observer bias; however there will be the benefit of a structured framework and as the researcher was not commercially connected in terms of earnings or the prospect of greater remunerative reward depending on findings there was no reason to assume an interest in seeking a particular finding or outcome.

4.7 The mixture of qualitative and quantitative data

In local government using statistics as measures in terms of performance is a long established practice. For example the Local Government Act 1999 established the *'best value regime and key performance indicators'* which was substantially numerical. The number of complaints is therefore a material measure of performance. The quantitative data contributes to establishing a picture of the magnitude of complaints. There are limitations as the local methodology of statistics collected from local authorities may

differ. Nevertheless with a sufficiently large sample it is able to provide a suitable starting point for the pre-step of the first action research cycle.

The quantitative data stage in terms of the number of complaints is clearly a measure but the qualitative data will be the lead or dominant method as the research asks *how do I / we improve practice?* Nevertheless the quantitative information will contribute the effect the action determined as a result of analysing the qualitative data it shores up the qualitative data and as being in a statistical form is essentially unobtrusive (Bryman & Bell 2007, p.330).

4.8   Quantitative data gathering

At the PLP Board meeting on 15 February 2013 I circulated a letter setting out the research proposal[43]. It included a commitment to a summary being produced of the results. The Board endorsed the proposal and I made an early circulation of the request. The same day I received a suggested amendment and re-issued the request. The request was first sent out in February 2013 to 27 authorities all of which had directly elected members by citizens. I did not include a fire authority as its members are not voted directly into office by citizens and, as citizen contact would be lower it would affect the overall return with a false positive due to there being much lesser citizen contact. I followed up with a reminder in April 2013 and then further followed-up on those authorities that had not responded. I decided another approach needed to be taken so resorted to formal freedom of information requests under the Freedom of Information Act to each of the authorities' information teams. This was completely successful and by 15 May 2013 I had received all the returns. As far as I could determine this was the largest quantitative survey conducted on the members complaints post July 2012. I presented my findings to the Board on 31 May 2013.

The analysis of the quantitative data and the feedback from the PLP Board is considered in the next chapter.

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[43] A copy of the letter of request is contained in the thesis appendix bundle of documents.

4.9   Qualitative data collection

F follow the Board meeting I met the Chair of the PLP Management Board. We reviewed the session and then discussed the framing of the interviewing that would be carried out. I explained the objectives and the purpose which was to commence the first of a series of interviews to acquire qualitative data to inform a picture as to where authorities found themselves in the first year of the new localism regime. The aim was to discover what had been the experience of the interviewee's authority, what has gone well and not so well. It would be to hear in the participants' own words, reactions and observations as to how the new regime was being adopted by their elected members and what was considered were the learning points so far. In doing so I would gather together views on best practice and identify the Critical Success Factors to delivering the *Localism Act section 27(1)* duty that is; to promote and maintain high standards. Following the assembly of the comments and observations a further presentation to PLP would result and I would circulate them in an anonymous form to peer practitioners with specific emphasis on encouraging academic debate and with a view to promoting improvement in practice. I then reviewed the effectiveness of this initiative.

Reasons for the objectives and questions
Working with the Chair of PLP I formulated the semi structured interviews questions. They would pursue *three objectives:*

- *Objective one* - To understand the localism changes in the promoting of standards – where are we now?

- *Objective two* - To establish what are the *Critical Success Factors* to delivering section 27 duty to promote standards?

- *Objective three* – To build on this research to promote the Localism section 27 duty and what steps should we take?

The objectives were in accordance with the first cycle that is to establish a picture of where complaints are for my authority and those of the PLP. The, second objective was

to work to identify Critical Success Factors (CSF) (Bullen & Rockart 1981), (Panagiotou, 2009). The third objective built on the first two by asking what steps we should take. Meeting with the Chair an expert practitioner and getting a close understanding of the nature of management and leadership of the legal function enabled greater precision in setting the first quantitative data collection.

Objective one - asked where are we now and to understand the localism within the context of the practitioner. The first question opens with the interviewee being invited to give a short history of their working with member complaints. Ithad follow-up questions if they had involvement with parish councils and sought to compare and contrast examples. It then followed with a chance for reflection on the statistics collected so far and consideration of the areas of complaint together with topics such as planning and any examples of changes - good or bad.

The questions then sought to establish what was understood by localism and what measures were taken by the practitioner to implement the new localism regime. Follow-up sub questions examined publicity, training and frequency and how well the work went. The first objective concluded on differences and behaviours.

Objective two – was to discover the Critical Success Factors for the promotion of standards. Critical Success Factors are defined as being:

> the limited number of areas in which satisfactory results will ensure successful   competitive performance for the individual, department or organisation, and they further articulate that CSFs are the few areas where things must go right for the business to flourish and for the manager's goals to be attained

<div align="right">

Bullen and Rockart (1981, p 7)

</div>

and *: 'the critical factors internally to the organisation that are imperative for operational success.'* (Panagiotou 2009, p14).

These would be the measures that the organisation and the practitioner needed to take for the most effective implementation of the responsibility to improve and maintain standards and manage complaints against elected members. The questions asked what the right steps were and examined training, leadership, attitudes and culture. The 14th report of the CSPL was raised and interviewee opinion sought on the Westminster Hall

debate of 2013. The issue of politics was considered specifically when political survival is at stake, for example if a council is on a knife edge in terms of power, will it be less willing to take action against councillor misconduct?

Objective three – was associated with the CSF's and sought to understand how to build on the research that is to establish the learning points and identify the actions to take so as to move into the second action research cycle. It asked if we are to promote the *Section 27 (1) Localism Act* duty what steps should we take?

The first question addressed the challenge of localism and should there be some form of national guidelines? Will the proposed ending of the Audit Commission and Standards for England have an effect and should the profession / Monitoring Officers set some benchmarks? Furthermore would the threat of more sanctions assist?

Finally the interviewee was then asked for their reflections and any other comments.

After further reflection I finalised the semi-structure questions as follows:

Objective One

Understanding the localism changes in promoting of standards

1. Can you give me a short history of your working with member complaints
   - *If a District Council ask about Parish Council matters – how many? – How do they run their business?*
   - *If County Council comment on strategic role*
2. Have you any comments on your local authorities statistics
   - *Areas of complaint*
   - *Planning re-occurring role – just how many*
   - *Any key significant changes good or bad?*
3. Please explain what you understand localism means and what measures you took to implement the new localism regime?
   - *Publicity & training?*
   - *How often*
4. Do you consider the changes met the objectives?

5. Have you noticed any difference in attitudes and behaviours?

Objective Two - To establish what are the Critical Success Factors to delivering *Section 27(1) Localism Act 2011* duty to promote standards?

6. What do you think are the right steps
   - *Training*
   - *What should it be about?*
7. Can you give me examples of how attitudes to standards have changed?
   - *Refer to 14th Report Committee + Westminster Hall 16 Jan – have you had chance to look at the 14th Report of Committee on Standards in Public Life – any comments?*
   - *Do standards determinate when political survival matters?*
   - *Local Newspapers*

8. Do you think leadership and culture makes a difference?
   - *Who should lead? an individual – a Standards Committee*
   - *Experience of bullying?*
   - *How do you establish leadership at Parish level?*

Objective Three – To build on this research to promote the Section 27 (1) Localism Act duty what steps should we take?
9. Should we have some national guidelines?
   - *Audit Commission & Standards for England*
   - *Should the profession / Monitoring Officers set some benchmarks*
10. Should there be greater sanctions?
11. Any further comments or reflections?

4.10 The interview process

To avoid the threat to validity and reflexivity of this phenomena and the inevitable power dimension of interviewing my own managers, I made a choice not to interview them and took the opportunity of the PLP Board's willingness to take part. They provided a pool of 26 senior managers at either head of legal services or directorship or the statutory Local Government and Housing Act designated officer for standards (the Monitoring Officer) level within the Partnership. I aimed to seek balance in terms of gender, and so included both men and women, Interviews were recorded, transcribed and analysed. All interviewees and their organisations were anonymised.

A sample of ten interviewees took part in the May to November 2013 interview research period. Patton's (2003) checklist was of assistance in the practice of the interviews so as to take account of the interviewees' experiences, perceptions, opinions, feelings and knowledge. As a fellow practitioner I was able to empathise with the speakers. I considered it was an example of a form of quasi-insider. I had to be conscious of the 'taking for granted' or as read or a '*pre understanding*' (Coghlan & Brannick 2010) that is: '*when you are interviewing you may assume too much and not probe as much as if you were an outsider or ignorant of the situation...*'(Coghlan & Brannick 2010 p.115) .

As interviews progressed it became apparent that the gender was predominately male and so a decision was made to extend the time span beyond the original research design and specifically seek out female interviewees to achieve a content of mixed gender.

Reflection – rapport and gender issues

As the interviewer is also a practitioner the rapport of a peer to peer encounter lead to some interviews varying in time as there were insights from the reminiscing of the interviewees of experiences they had. This aspect could lead to matters being taken for granted. The use of full transcripts was a technique to avoid selective summaries which could influence reflexivity in the researcher's data collection. A recurring concern for me was the need to eliminate gender as a possible influencing factor.

I wrote in my Field Notes:

> *In a bit of a quandary as to how many interviews to carry out ... been a disappointment that have so far not interviewed any women, so have taken to the strategy of writing to female heads and saying please can you contribute to give some balance. Is there a gender bias to co-operate - I don't know but want to specifically address it head on by saying - 'was concerned about potential bias so did etc '*

Researchers Thesis Field Notes
4 August 2013

and

> *'I do think referrals help so a favourable encounter may lead to further introductions for research. The gender issue continues to be a concern - only interviewed one woman. I followed up other women but they did not respond and the other woman had to cancel. I'd like to get another interview if at all possible.*

Researchers Thesis Field Notes
8 September 2013

The interviews were either held in the interviewees' own rooms or in offices within the local authorities. They were conducted on a one to one basis though on one occasion a person attended as an observer and in another case an administrator attended for the purpose of taking notes. There were no interventions by third parties.

The interviewees were selected for their experience and all had been in their posts for a number of years. A senior member of CSPL was also interviewed to get another view with the questions amended to take account of their unique position.

The semi-structured interviews

All followed the objectives which were set out in a pre-interview letter and a script. The interviews provided qualitative data in terms of response to the questions, though where

the interviewee sought to clarify by referring to their computer, notes and filing this was encouraged. The results of the earlier survey was a useful adjunct to the interview.

All the interviews were digitally recorded using a Philips system and a full detailed transcript made and then sent to the interviewee for comment and amendment. It was stressed that they could make corrections, changes, comments and additions.

The interviews were given identification prefixes for the purposes of analysis and some specific detail was removed that would identify the interviewee or their organisation or authority. Where the content related to national events or matters openly recorded not within the interviewee's area these elements remain

 I set out the Interview list as table 4.1.

Interview list		
Name	**Occupation**	**Authority**
IV01	Monitoring Officer	A & B
IV02	Head of Legal	C
IV03	Head of Legal	D
IV04	Acting Chair Committee for Standards in Public Life	E
IV05	Monitoring Officer	F
IV06	Monitoring Officer Solicitor	G
IV07	Director	H
IV08	Chief Legal Officer	J
IV09	Legal & Democratic Services Manager	K
IV10	Head of Law	L

Table 4.1 Interviewee List

Chapter 5 – Analysis of quantitative data and trends in complaints

5.1   Introduction

This chapter is about the pre-step and commencement of the first research cycle. It considers the analysis of the researchers own organisation longitudinally from 2010 to the commencement of the qualitative data collection.

5.2   Pre Step

To commence pre-step a survey was carried out of all the complaints received by my authority from 2010 to date. 2010 was chosen as the starting date as it would provide an historical basis to set the complaints received from the date of coming into affect of the Localism Act (1st July 2012) .

The complaints were analysed in terms of quantitative analysis, in terms of who had made the complaint and whether it was citizen, officer or another member and what was the outcome. This is set out in table 5.1.

Pre Localism researcher's home authority member complaints		
2010	**Complainant**	**Outcome**
MC 1 /10	Member (different party)	Deferred by agreement with complainant. *No action linked with MC2/10*
MC 2 /10	Member (different party)	Deferred by agreement with complainant. *No action (linked with MC1/10)*
MC 3/10	Citizen	(1) to investigation (2) *no breach* Outcome – of investigation no breach
MC 4/10	Citizen	Following Council elections on 6 May 2010 on advice from Standards for England, re-assessed– potential breaches identified but as subject member not re-elected, sub-*committee reluctantly agreed no action.*
MC 5/10	Citizen	Apology and training on chairing meetings
MC 6 (1)and(2)/10	Citizen	No action/ insufficient evidence - reviewed – referred to MO for investigation. 16 December 2010 – *accepted IO findings of no failure.*
MC 7 / 10	Citizen	Complaint withdrawn
MC 8/10	Citizen	*Agreed no action* as MO had taken action on receipt of complaint. No review requested.
MC 9 / 10	Citizen	No further action as uncontactable
MC 10/10	Citizen	*No action.*
MC 11/10	Staff	*Agreed no action.* No review requested
2011	**Complainant**	**Outcome**
MC 1-11	Staff / Whistle Blower	*Other Action* MO to prepare policy statement and procedure for dealing with anon complaints and those raise through the whistle blower policy
MC 2-11	Citizen	*Other action*
No Complaints 1st Jan to 30 Jun 2012 *(from 1 July 2012 = Localism Regime)*		

Table 5.1   Pre Localism researcher's home authority- Member complaints

From 1st July 2012 the new regime applied. The researcher was responsible for carrying out the assessment of six out of seven of the complaints post 1st July 2012. A further quantitative analysis of these complaints is set out in table 5.2.

Localism Act home authority member complaints 1 July 2012 – 30 April 2013					
Complaint	**Complainant**	**Issue**	**Number**	**Were the members acting as members?**	**Comments**
1	Citizen	Parking zone introduction	3 members	No	Complaint rejected as outside scope
2	Citizen	Conduct	1 member	No evidence was provided that person was acting as member	Complaint rejected as no evidence
3	Citizen	Conduct	2 members	Yes	Complaint rejected as vexatious
4	Citizen	Pension	2 members	No	Complaint rejected as outside scope
5	Citizen	Traffic enforcement	2 members	No	Complaint rejected as outside scope
6	Citizen	Housing allocation	1 member	No	Complaint rejected as outside scope and vexation
7	Citizen	Parking	3 members	No	Complaint withdrawn

Table 5.2   Home Authority 1 July 2012 – 30 April 2013

I discussed my findings with my line manager and we reflected on the nature of complaints and the outcomes looking specifically at the post localism complaints. It was clear that in particular in the multiple complaints made by individuals that their concern was about traffic and parking (8 complaints) and about human resources. These were issues about council services and none of these matters were within the responsibility of elected members and in the case of parking there were clear statutory procedures under the Road Traffic Management Act 1984. While car parking is not directly a councillor's responsibility, it is clear on the evidence the issue is controversial and tends to provoke strong feelings. This is because while officers are responsible for administration and enforcement, elected members will have taken the original decision to designate an area

as a controlled parking zone. Inevitably it is a political issue as for all those in favour there can be as many against. The complaints regarding parking were aligned with recent decisions to designate areas where the members are sitting councillors. The community's discontent led to petitions being presented to the council which under its Constitution was bound to receive them at a full council meeting. The complaints blamed the councillors for the residents' dissatisfaction over parking. These issues were not resolvable because the community was sharply divided in the same neighbourhoods over those in favour of parking control and those who were not. We reflected on this matter which was leading to many complaints against members and determined to recommend a change in the council's Constitution. This action closed a loop-hole so as to avoid petitions on the matter being heard before the council where some citizens sought to have a re-run of the designation decision. The activists against the parking controls were advised they must use the statutory consultation period to make their views known following a public notice of proposed changes. If they did not make representations in that period it was too late and complaints against members would be rejected as they had no further role once the consultation period had finished regarding parking control.

Scrutiny of the complaints revealed citizens had a different expectation as to what the elected members would do for them. My manager and I reviewed the Constitution and observed that the formal definition of the role of elected member was almost completely absent from the council's governance documentation. While the Local Government Act 2000 section 37 requires that a local authority must establish a constitution document which should contain information of a prescribed nature by the Secretary of State including standing orders, code of conduct and as the authority also considers necessary. The definition of the role of councillors and their duties is not a specified requirement. So rather than the citizen being advised that their concern was not one that the member could help them with; they persisted with their concerns only to find in due course the complaint was rejected. We considered that this was a major developmental area as while the requirement to have a code of conduct was obligatory under the Localism Act; the precise role to which it was applies in terms of duties was not. This meant that to determine whether the code applies is a question of fact. We therefore agreed that we would work with our colleagues in the administration of members support to develop clarity over the member's roles. This was very helpful and my manager

suggested that it would be informative to look at the source of complaints. While the post localism complaints were all citizen the complaints prior to the Localism Act coming into effect were more varied with a number of sources of complaints namely other members; staff and citizens.

As members of a council are a small fraction of the citizenship of the borough it appeared to be significant that there should be two complaints from members against members as described as '*tit for tat'* by the Secretary of State Eric Pickles.

The volume of complaints in the first six months of the new regime was more than had been anticipated from the trend of the pre July 2012 regime. Furthermore the arrangements put in place for complaint handling were silent in terms of timescales for the steps which made up the procedure. By analysis of the cause of complaints it was clear that the number of had climbed and we needed to see if there was any pattern. It appeared the majority of them lacked evidence to support the complaint. The major cause of complaint related to disappointment with ward councillor and surgery work. It was clear there was a need for pro-activity. I prepared a report highlighting concern over the lack of management of complaints to the Councils Standards |Committee on 17 January 2013. I proposed a set of *complaints management rules* mirroring the best practice of the courts in actively managing complaints and ensuring there was a timely process. The committee agreed with the proposal and this was taken to full Council and adopted on 25 February 2013.

Reflection

The initial stage of the first cycle was very effective. Under the post 1st July 2012 regime the volume of complaints signified that action was required. The cause of the complaints was not due to the members of the council it was the process which enabled complaints to be received under the localism regime. Once the nature of the complaints was identified and the lack of ability to manage them was noted, a strategy was developed to eliminate a significant number of complaints.

<u>Applying the improvement in practice – the 'we'</u>

To establish whether the situation was unique to my authority or wider, my manager agreed that I could broaden the enquiry into practice to professional colleagues. I drafted a letter which I sent out to all the PLP authorities under the Freedom of Information Act 2000 which I sought feed-back on in terms of metrics. It was suggested that it would be worth-while to look at the nature of who was complaining particularly with regard to Members and Staff complaints against elected members.

I discussed with my manager what a suitable request for information would look like in terms of content. All the information requested was quantitative and set at a reasonable level in terms of volume. The reason for this was that under the Freedom of Information Act refusals can be made if the request seeks personal information and also if the request is too onerous on resources.

5.3 Quantitative data gathering

To recap following the PLP Board meeting on 15 February 2013. I commenced the quantitative survey. The responses were all received back by e-mail. The data form returns varied with a number of authorities choosing not to use the form provided. Some of the forms were completed by hand thought most were typed. A number of organisations had to be contacted with follow up questions as their responses were unclear. By 15 May 2013 I had received all the returns. The final tally was 100% return rate.

<u>Returns</u>

The returns are set out below:

Quantitative survey complaints in PLP						
Local Authority[44]	Received	2010	2011	2012	07/2012	Comments Trends
Barking and Dagenham	Yes	11	2	0	3 (5)	citizen / staff / members
Basildon	Yes	2	7	5	2	members + staff + cit
Braintree	Yes	12	21	0	4	members + citizen
Brentwood	Yes	3	2	4	7	member v members
Broxbourne	Yes	1	0	0	0	member v members
Castle Point	Yes	3	0	0	2	member v members
Chelmsford	Yes	0	2	6	21	members + citizen
Colchester	Yes	3	6	0	2	Citizen
Daccorum	Yes	3	4	0	5	members + cit + staff
East Herts	Yes	5	24	1	0	Citizen
Epping	Yes	6	4	3	5	members + citizen + staff
Essex CC	Yes	3	3	2	0	citizen + staff
Harlow	Yes	2	2	0	0	members + citizen
Hertfordshire CC	Yes	3	2	0	2	Citizen
Hertsmere	Yes	2	2	0	0	
Maldon	Yes	6	6	4	5	citizens
North Herts.	Yes	1	1	1	0	
Rochford	Yes	4	5	0	2	members + citizen
Southend BC	Yes	16	3	1	2	11 member v member 2010
St Albans	Yes	16	8	2	4	all citizen
Stevenage	Yes	0	1	0	1	all citizen
Suffolk CC	Yes	2	5	0	1	
Tendring	Yes	6	2	3	6	5 members + 4 citizen
Three Rivers	Yes	4	0	1	0	members + staff
Thurrock	Yes	7	7	0	5	citizen + staff
Uttlesford	Yes	3	13	0	3	Citizen
Watford	Yes	5	0	0	0	member v members
Total		127	132	33	83	

Table 5.3 Quantitative Survey Complaints in PLP

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[44] As the information is collected through FOI the organisations may be identified

5.4   Analysis

The figures provided should be reliable as they were provided by public sector bodies under statutory obligation to ensure accuracy. The totals for the years surveyed are substantial.

The number for 2012 went up in the second half more than double under the new regime.

Trends

Total number of complaints per annum

Total Complaints Per year				
Year	2010	2011	2012 to July	2012 July O/W
Number	127	132	33	83

Table 5.4 Total Complaints Per year

The numbers between 2010 and 2011 are very close with a significant drop in 2012 as a whole that is taking the pre localism and post localism numbers as a total though the number more than doubled from the first half to the second. One authority had a large number of complaints (20) generated by citizens none of which were up held.

Citizens made up the majority of complaints and on average made just fewer than two complaints per person. This was followed by member on member and finally staff on member.

Total number of citizens making complaints[45]

Year	2010	2011	2012 to July	2012 July onward
Number	69	99	23	73

Table 5.5 Total Citizen Complaints Per year

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[45] If a citizen makes more than 2 complaints still treated as one citizen.

Total number of member on member complaints

Year	2010	2011	2012 to July	2012 July onward
Number	37	20	8	20

Table 5.6 Total member on member complaints per year

Total Number of Staff Complaints

Year	2010	2011	2012 to July	2012 July O/W
Number	37	20	8	20

Table 5.7 Total of staff complaints per year

While it might be anticipated that the number of complaints would predominately be from citizens, the number of complaints originating from members against members is significant. For example for the year 2010, it was reported that out of the sample of complaints brought there were a total of 127 complaints. Within that figure there were 69 citizen orientated complaints and 27 member orientated there was an approximate ratio of 3:4. In 2011 the number of members' complaints dropped by nearly 50%.. Members' complaints went on to more than double the following year specifically after the introduction of the new regime. The complaints went from 2 members complaints in the first six months to 18 in the second.

Anomalies

Of the returns a number of the authorities had very high returns in some years over the average. In so far as a trend emerges, there is an explanation in that it appears that complains do appear to follow voting cycles. However there are a number of vexatious complainers who will be responsible for a large number of complaints and as in due course they are dismissed the numbers do drop accordingly.

Statistical Anomalies – More than 7 Complaints						
Local Authority	Received	2010	2011	2012	07/2012 o/w	Comments Trends
Barking and Dagenham	Yes	**11**	2	0	3 (5)	Citizen / Staff / Members
Braintree	Yes	**12**	**21**	0	4	member + citizen
Chelmsford	Yes	0	2	6	**21**	member + citizen
East Herts	Yes	5	**24**	1	0	citizen
Southend BC	Yes	**16**	3	1	2	11 mem v mem 2010
St Albans	Yes	**16**	**8**	2	4	citizen
Uttlesford	Yes	3	**13**	0	3	citizen

Table 5.8 more than 7 complaints per year

I set out in table 5.8 those authorities which had in excess of 7 complaints. In the case of Barking and Dagenham, East Herts and Uttlesford, the high numbers occurred within a short period and in the case of Braintree and St Albans over a longer period. All the complaint trends went down with the singular exception of Chelmsford.

The high numbers do not signify in itself a shortcoming in governance, though in the case of Barking and Dagenham the numbers are connected with the Council elections and the British National Party which had a significant presence[46]. Seven complaints were made prior to the election.

Mean average complaints per annum

This is established by dividing total number of complaints by number of organisations.

Year	2010	2011	2012 to July	2012 July onward
Number	127	132	33	83
Authorities	26	26	26	26
Mean	5	5	1	3

Table 5.9 Mean average complaints per year

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[46] Until all were voted out in May 2010

Mid - mean average complaints per annum

This is established by establishing a trimmed mean (Easterby-Smith et al 2012) dividing total number of Complaint by number of bodies. As can be seen in the anomalies table 7 authorities had over 7 complaints in one year and there were 8 occasions of more than 7 complaints. Adopting a 50% trimming taking out the 7 highest and 6 lowest

Year	2010	2011	2012 to July	2012 July onward
Number	50	40	8	26
Authorities	13	13	13	13
Mean	4	3	1	1

Table 5.10 mid mean average complaints per year

5.5   Presentation to Peers

On 31 May 2013, I attended the PLP Governance Special Interest Group and presented the initial findings. I commenced by an introduction to action research and how the investigation was to take the form of an advance *pre-step* (Coghlan and Brannick 2010). The group observed that there could be complaints that never actually appeared on the final statistics but may have required an investment in time. The particular concern was parish councils. This was a very important insight to me as I had up to that stage been focused on the governance issues facing a London Borough which does not have any parish councils. This was to prove to be a key issue for district council practitioners as would emerge in the interviews. I made note of this point. I circulated a request for those who would be agreeable to be interviewed. The keen response was very welcome and a good start for participatory action research.

5.6   Feeding into Objective one

Objective one sought to find out where we were as practicioners at the start of the Localism Act's chapter seven regime. The picture was that the number of complaints was substantial in terms of volume. Authorities were facing at least two complaints per annum. Some authorities had significantly higher numbers outside the trends. These

needed to be investigated by the semi-structured interviews. However from the trend regarding the number of member on member complaints there seem to be a likelihood that high numbers of complaints were connected with political disputes and behaviours rather than down to evidence based failures in the Nolan principles. The quantitative material served its purpose for establishing credibility with the group and a source of discussion for the objective one component of the interviews.

5.7   Reflection

The feedback about behaviours which could be a complaint but is never officially recorded was an interesting point to arise. From my experience as a practitioner these would be when a complaint was made by an employee about a member. These would normally be dealt with via an employee-councillor protocol. As a result they are often dealt with outside the complaints procedure[47]. As such, non recorded complaints were outside the scope of this research.

The presentation was effective in securing co-operation with other practitioners which was the primary aim; that is to say from the initial meeting on 15 February 2013 at the PLP I had established a dialogue with the senior legal management of local authorities operating in three South Eastern Counties plus a London Borough. This had been achieved by setting out a proposal to produce a bench mark in terms of number of complaints for the organisation for three years and delivering a presentation with early analysis. This established credibility for the next stage of mining for qualitative data.

The presentation proved to be helpful in getting to know senior managers and as the research progressed enabled me to access a significant body of senior management. Indeed one of the participants immediately volunteered to be an interviewee and a list was passed round the table. This was a better outcome than I had anticipated.

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[47] They are not limited to junior staff, indeed it is often senior management such as chief executives and directors and the differences that may occur between a chief executive and an elected leader may lead to termination of the employee with a severance agreement. Such matters would make an interesting inquiry; however the severance agreements normally contain confidentially clauses preventing discussion with third parties.

Chapter 6. Analysis of qualitative data and Critical Success Factors for improving standards

6.1 Introduction

This chapter is about the qualitative data analysis, finding out the state of complaints against members leading up to and on the introduction of the new standards regime. It further seeks to identify the critical success factors for practitioners so as to improve practices and the implications of the findings to be used to move onto the next cycle of the research.

6.2 Data Analysis

I then addressed the data collected by applying the grounded theory analysis as explained by Dick (2003) see fig 6.1

Data-collection
(Interviews)

Note-taking
(Digital Recording)

Coding
(Identification by objective)

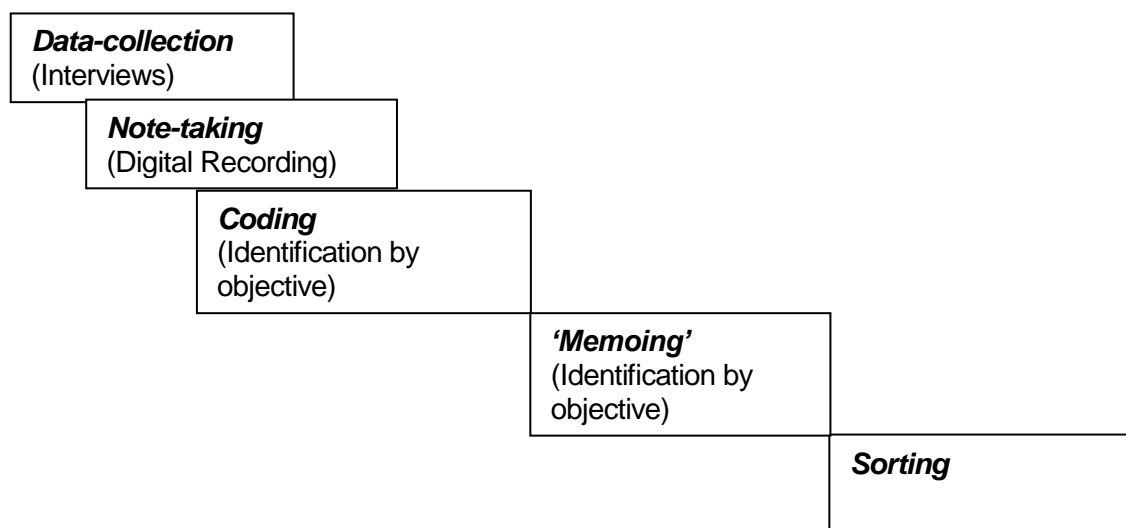**'Memoing'**
(Identification by objective)

Sorting

Fig 6.1 Dick (2013)

Dick (2013) observed that Glaser was not enthusiastic about the use of recording. However the information I sought was likely to be rich in detail and I wanted to have descriptions in the vocabulary of the participants which would not have been captured by

abbreviated note keeping. The post interview transcription took far longer than I had anticipated. However the quality of the content and size[48] it provided, plus the reassurance of accuracy added an important ethical safeguard for the participants and vindicated the use of a recording and transcription and confirmation process. Use of verbatim quotes rather than paraphrasing ensured a greater level of robust and rigorousness to the data and worked towards greater objectivity and a sounder base for reflective practice than if for example, I had relied on summarising notes for a reflective cycle, because the recording method enabled me to replay the interviews and reflect on the exchanges intonations and emphasis. The need to set this data in context was why a software solution such as NVIVO was rejected for data analysis.

I decided to assemble the interviews into a single document accessible digitally and physically containing my meta-interview data. As I reviewed the evidence for the objectives a sifting process (coding process) was carried out. The interviewees were assembled in chronological order and in the following part the page numbers refer to that document.

Interview										
Interviewee	**IV01**	**IV02**	**IV03**	**IV04**	**IV05**	**IV06**	**IV07**	**IV08**	**IV09**	**IV10**
Date	*11 June 2013*	*18 June 2013*	*5 July 2013*	*19 July 2013*	*12 Aug 2013*	*12 Aug 2013*	*14 Aug 2013*	*23 Aug 2013*	*26 Sept 2013*	*7 Nov 2013*
Digital File	A 07	A 09	A 11	A 12	A 13	A 14	A 15	A 16	A 17	A 18
Time	1hr 06min	1 hr 02min	1hr 20min	1hr 10min	1hr 28min	1hr 25min	1hr 19min	1hr 13min	1hr 36mim	1hr 17min

Table 6.1 Interview times and dates

All the semi-structured interviews were converted into text and a bundle of interview transcripts produced. All interviews took in excess of an hour; the longest 1 hour and 36 minutes (see table 6.1). To establish themes I read line by line through the interviews

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[48] The meta data interview bundle is approximate 79,300 words.

marking with highlighter pens. I then utilised a key word technique. I searched throughout the consolidated interview document and highlighted electronically words before and after then lifted them to add to a new document containing the themes ('memoing' Dick (213)). Because there was often context to the use of words the full transcripts provided the reliability that would be absent from relying on researchers notes and avoided reflexivity challenges. During the transcription process I used the note facility of *Windows Seven* to highlight key insights and carry out cross references.

The interviews were then analysed by coding in terms of the three objectives namely: ***Objective one*** - To understand the localism changes in the promoting of standards – where are we now? ***Objective two*** - To establish what are the Critical Success Factors to delivering section 27 duties to promote standards? and ***Objective three*** – To build on this research to promote the Localism Act section 27 duty what steps should we take?

While each of the objectives had a number of questions, the semi- structured responses meant that answers would often cross themes and identify issues that would only emerge after a follow-up question. I was struck by how similar the emergence of findings was with grounded theory. As a result I considered the objectives and the themes which emerge which Dick (2003) describes as the '*core category*'. He advised that once a core category emerges it then becomes focussed. As the data is collected there does become a point when no more examples of that issue are identified '*saturation'* I have set the cores within the objectives.

This chapter continues with each objective being considered in turn. Detailed analysis in terms of themes that emerged is addressed at the end of each objective. The broader implications for practice will be considered in the next chapter.

Note to Reader

The next part of this chapter considers the analysis of the interview transcripts.

To make the interviews quoted easier to read, I have used Times New Roman font for the Interviewers questions in the text and Arial font for the replies.

The page numbers refer to the meta bundle of interviews.

Where necessary the interviewee responses are redacted for anonymity where the answer could lead to identification.

6.3   Analysis of Interview responses to *Objective one* question – understanding the localism changes in promoting of standards, where are we now?

The first five questions sought to get a picture of where the interviewees felt they and their authorities were to date and invite them to give a short history of their working with complaints against Members, and commenting on their complaint statistics. All ten participants responded. With application of the grounded theory analysis technique a number of clear themes[49] emerged as follows:

- The Localism Act duty to maintain and promote standards was having little impact on authorities and as a result did not displace the existing culture in terms of attitudes towards issues of standards
- Complexity of the new regime particularly for parish councils
- The need for practitioners to get clarity as to what the complaints are really about as many appeared to be politically motivated
- Lack of clarity over the statutory Register of Interests

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[49] Sub-Codes

- The Localism principle meant practitioners have little guidance or support from national government following abolition of the Standards Board
- the politics of complaints against elected politicians
- What is the role of an Independent Person under the Localism Act - as it is undefined?[50]
- Lack of clarity as to the responsibility to take leadership for standards
- No consistent guidance as to what is a breach of the code of conduct
- Communications - public confidence is shaped by negative stories rather than success
- Planning committees are a consistent source of complaints

Objective one - the overall picture

Finding 1 - no evidence the Localism Act was having an impact

The overall picture questions revealed the first key finding of Objective one from the qualitative research session, which is that Localism in practice has an inherent contradiction that is a national requirement to improve standards cannot be delivered if it is left to be achieved at the local level. This because of existing cultural attitudes will act as a barrier to change. The responses by the interviewees established the finding that there was no evidence that the Localism Act was having an impact in improving standards. In various answers as the comments extracted will demonstrate, the Localism Act's creation of the legal duty to maintain and promote standards was undermined by it being a local duty with no sanctions for a member who was not carrying it out.

For example interviewee IV01 response was:

Q. Do you think the changes met the objectives i.e. of the localism Act?

A. No I don't see at county, borough and district or parish council level of taking advantage of what the opportunities are in the Localism Act

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[50] A matter even more complicated by the Local Government (Standing Orders)(England)(Amendment regulations 2015 No.881 which creates a new role involving Independent Persons in statutory officer disciplinary proceedings.

Q. Would it be fair to say that the key effect of the Localism Act has been to dismantle the Standards for England shift everything to the local bases but apart from that the Localism Act has not had a great deal of impact?

A. I would agree – if anything else it has weakened the standards regime and its clear to Monitoring Officers and becoming clear to Members that the sanctions are neither here nor there – there is no sanction in terms of capital 's'

<div align="right">IV01, p. 9</div>

This was not an isolated response, IV03 observed:

A. the Government made a complete and utter hash of it - to be honest they were all the way proceeding on there would not be a code anymore and the law would just put in some legal principles ..., now our members here were already not very happy with that and thought there was a need for a code and already passed a resolution saying they wanted a code once the government were mooting changes but clearly the government said they were going to abolish it all and then right at the end they got cold feet and said no- no you have to have a code after all they have copped out by saying all invent your own codes and I have to say I disagree with that, I think all councillors in Britain should play to the same rules - there should be a common understanding whatever public authority area whether it be Manchester or Council D – it seems to me that the basic principles expected of members should be exactly the same and I find it, well I disagree completely that we have got different codes all over the place.

<div align="right">IV03, p. 31</div>

IV09 echoed the opinion:

A. That's a very hard question because it is a bit of a loaded question I'm not sure if anyone understands what the localism objectives are and I think the Government is constantly changing – it tells us – we are probably close to the Government that the other PLP authorities because we adopted a simpler version of the code – I stand shoulder with my colleagues who took umbrage against Mr Pickles who issued a dicta you are all doing the wrong thing with a more complicated code – it is none of his business, he asked for locally decided code – if he does not like it he should have produced a national code and we will happily sign up to it

<div align="right">IV09, p.145</div>

IV10's reply encapsulates the lack of impact of Localism Act to bringing about positive change:

> A. No – not especially – I think again the Localism came in we dealt with it. We have our own procedure to deal with complaints. Members still continue to behave the way prior to the regime – I think when it first came out we thought members were going to be – can behave how I like – but that actually has not happened and that shows in the stats our Members have not – you can get some behaviour where they can be rude or objectionable but actually in the bigger scheme of things is that they know when they have crossed the line
>
> IV10, p.169

 IV04 confirmed the results for PLP were in line with national expectations.

Finding 2 - Localism created a lack of consistency and complexity particularly involving parish councils

The interviewees reported that while they understood that the Localism Act had intended to create a more flexible system for dealing with complaints the lack of guidance and a universal or prescribed code of conduct for England had led to a proliferation and complexity in terms of variations of codes of conducts. This was particularly the case in district councils. There could be 50 plus parish councils within a district all of which were entitled to have their own individual code of conduct yet dealing with breaches of that code were the district council's responsibility[51].

Complexity was created due to several codes all applying the same member. As there is no legal restriction on councillors being either parish, district or county councillors it is possible for them to be members of two or more councils. The term used is 'twin hatter' for membership of two or 'triple hatter' for three. In practice the picture was mixed with County Council █ having a uniform code for district and county and County Council █ having a mixture of different codes. There are quite a few multiple hat wearers as the next quote demonstrates:

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[51] The three County Authorities in PLP have 300, 421 and 423 Parish Councils respectively (1,044).

A. We did try and say can we have a one County code as one of my difficulties with the code and localism and local determination of codes is that you have 11 different codes in County █ – I have got 5█ twin hatters so I have say to them when you are on the County Council this is your code – when you are on ██DC this is your code and that causes them confusion and it would have been better in some sense if there had been a national code or if there had been a County █ code – but we did not get to that point.

<div align="right">IV08, p.125</div>

The initiative by PLP in attempting to create a common code is illustrated by Council █, where again there could be multiple codes of conduct as Council █ was a district council with a parish town council. The district council also had members who sat on the county council. This would mean that if a member was a member of the town council, the district council and the County Council then they could be subject to three different codes:

Q. are any of the █ County Council Members in the Cabinet ? –
A. Yes two of them
Q. So they could be sitting for three different matters and three different codes of conduct?
A. Yes one of the benefits of PLP was to help members as they did not want to have different codes at different tiers of authorities they were working for or representing so that was one of the huge benefits for the PLP code in that they were all working for the same code and getting the same advice on the code

<div align="right">IV10, p.165</div>

Parish council business could get heated, IV05:

A. one of the issues for me is, and we have got it in a number of parishes and this is a gross generalisation but some parishes struggle to deal with a very divisive local issue and what happens is half the councillors on one side and half on the other it becomes the dominate issues so they struggle to deal with the day to day business everything is focused on the controversial issue the classic example is the replacement of the village hall

<div align="right">IV05, p. 68</div>

The situation at parish level regarding standards was considered to be with little engagement; here follows an interview extract with interviewee IV01:

Q. To pick up on parish again do they follow the same rules of conduct?

A. In general yes – in Council B two parishes' use the National Association of Local Councils (NCLA) Code the others use the code that Council B uses which makes it easier for the Monitoring Officer.

Q. In terms of Parish what of leadership?

A. they see the register of interests and the declaration of interests as an administrative burden – that's their only engagement

<div align="right">IV01, p. 13</div>

This was not in isolation, Interviewee IV02:

A. I can't give you a definitive answer to this I have got a record of who has told me what they have done and from that record I know that 31 have adopted our code of conduct, █ have not indicated to me what they have done

<div align="right">IV02, p. 18</div>

One interviewee expressed the intention of attempting to establish consistency:

Early on we decided if there was going to be no national code we felt as Monitoring Officers there should be one code for the county and district councils – we would be working with the █ Council's Association of Local Councils to get it adopted by as many town and parish councils as possible and that has been largely successful although I would not say it has been 100% as a county council not something I'm directly involved with

<div align="right">IV07, p.99</div>

IV03 commented:

A. Yes sometimes you get awkward people on those parish councils they get personal spats and it gets unpleasant – there is a certain rigour to a bigger council – I'm not saying it can't get unpleasant but in a more regulated atmosphere and it can get out of all proportion

<div align="right">IV03, p. 37</div>

In a follow up question it was asked whether there is a lack of confidence on officers' part:

A. Yes it is a lack of confidence - sadly I have seen it - and especially in parish clerks, and I won't name any names, and not very confident or competent or terribly able people see these codes as means of controlling members, so there are some unhealthy elements

<div align="center">142</div>

there which are a long way from good governance and might be as much about confidence at member level as much as a officer level

A. We have 4█ odd parishes and as you would expect with parish large town councils with a substantial budget quite a few staff to down to small few number of members very small budget and operate in a very small rural area. Councils as you might expect there are one or two which have problems with governance issues therefore crop up from time to time and others you don't hear about - from my experience engaging with town and parishes has been difficult under both regimes – we have run a number of training sessions under both regimes and made a considerable effort to visit a number of town and parishes –the town councils we have a reasonable relationship and are prepared to engage with us and so on – some of the parishes think we are some intrusive big brother and they don't want to know who we are and don't want to deal with us and get quite cross when you start e-mailing advice to them and really don't want to know   - so I have to manage that split

and

Q. Is it difficult to get them to fill out their declaration of interests at parish level?
A. Yes – we still have not have had some of them – you try all means to get it out of them but some people don't want to co-operate. There is no teeth – you can't say – if you don't - we will do something so – we have got most of them on board I think – We have done a bit of auditing of the declaration form because we have found some of them are obviously wrong – wrong information in the wrong box kind of thing we can't audit all of them as we don't know the personal circumstances but where on the face of them they are wrong we have gone back to people and said can you have another look at this please and that's been quite interesting as a way of training those parish council clerks – 'oh right' most of them have been genuine errors just not understood it

Q. Have you noticed any difference in attitudes and behaviours now we have got the new regime?
A. No, I have not in terms of good behaviour it's continued – in terms of not so good behaviour it continues too – my guess is the change in the law in terms of relatively small examples has not encouraged worse than before – across the districts where there are

more complaints - my own feeling is that they would have happened anyway difficult to say I have noticed any difference

And

A. The other big difference which is again in relation to parishes rather than city councillors – the city councillors have political groups and there is peer pressure and they are mindful that they are up for election every four years and are mindful they want to be seen as doing the best for their residents and therefore they do adhere to some of their principles of the old code much tougher with complying so I don't think there has been a huge step change although their attitude has not changed but perhaps it should have. The biggest issue is with the parishes, the councillors never wanted to abide by the original codes – and have taken this opportunity to say oh well we don't have to worry about it now. Equally there are pockets of parish councillors who have spoken to me and are very concerned about relaxation for that reason they can see others will take something out of it so they don't have to comply as it is of no importance – from my perspective having gone from being told there are virtually no complaints and when I've back tracked statistically there were not many complaints there have been a large number admittedly to do with a single parish council to and fro in that parish council but it highlights that people want to complain but there's not really anything they can do and that's the biggest - the public's awareness is greater but their ability to have any action taken is reduced

The picture was that the county councils get fewer complaints:

A. Now – we don't get that many –
A. From the statistics – and we did not get many before and we don't get many not much different to before although now I don't have to call a sub-committee if I get a complaint etc – so it is very low key as that is the sort of complaints I'm unfortunate enough to get so – let the member know we have had the complaint and let them know how we decide to deal with it – we have not had any referred for investigation since last year and in the 5 or 6 years we only had one referred to investigation

and

A. I don't think we are out of step at Council ▌ we have had a historically low level of complaints and know you can look at it two ways but the way we like to look at it is that actually its testimony of quality and the character and culture of the place – from officers

down to members so I'm not surprised at the number of complaints and those that we get are on the whole minor or just grumbles and certainly member on member complaints – unheard of they will sort it out amongst themselves if they have an issue that's not to say they don't have robust exchanges in the chamber or in the press – but actually they respect each other and the people who put them there

<div align="right">IV08, p.121</div>

Q. Touching on areas of complaint the areas were member- v- member but planning is significant – are there any key significant changes good or bad?

A. To be perfectly frank I don't think there has been any step change between the old regime and the new regime between members – the code we have adopted is not dissimilar to the previous code which worked ok subject to some tweaks by members – so the training they have had now has been consistent now for a number of years – because the code had been similar members will always seek me out for advice on whether or not they should declare an interest – it's as the same people – you know straight away its going to be the same people not volunteer to have a conversation with me or try to brush it under the carpet and hope that we won't see they have not declared an interest. The difficulty is what can we do about it if they don't – and this is what the Localism Act had done - it's fairly and squarely back to members for members to decide to decide whether to declare an interest there's not much we can do about it we can advise them but at the end of the day we don't know all of their interests. There will be – hopefully it's on their registers but if it is not there we would not know the balls back in members' court to declare

<div align="right">IV10, p.165</div>

Finding 3 who is making the complaints?

As observed during the quantitative survey exercise the complaints from the public were mainly about parish councils and planning matters for district councils. These were discussed with IV04 .The data revealed the significant number of member on member complaints and the public accounting for about half:

Q. So this is a region – we got them to fill out a number of surveys – one of the most interesting trends that came out was how many member verses member complaints there are – I'll give you the head line figures

A. That was always the case – the public were only about half – if that

<div align="right">IV04, p. 46</div>

Q. Then filtering for mid mean average of four, four, one and two 'trimmed mean' that takes extremes off both sides – what this means is that any local authority can be pretty confident it is going to get at least two complaints a year as a barest minimum
A. What is known, as well predicted

<div align="right">IV04, p. 47</div>

For county councils planning was not an issue.

Q. With districts the theme of complaints seems to be planning – is there any theme as far as county councils are concerned?
A. Public concern about actions of the leaders – they came from people who would have been aware with such a small number of complaints it's difficult to say more

A key point is that county councils as large organisations covering many square miles and the level of contact is different being that district council's deal with planning matters a source of complaints:

Q. There are three sources – member versus member employee verses member and public versus member; in a county council is there less clash with the public?
A. In a very large organisation like Council ▮ there is a distance between and the role they play out on the ground in some of the districts it's much more intense the relationship with the member of the public and the member themselves. Because [district] members are much closer to what is happening on the ground – interesting one district for example has one member to every three officers and this gives some idea of scale and for a district of that nature there will be probably be a lot more contact in terms of the issues that the council deals with members of the public than an authority which is much more strategic like Council ▮ where you are going to have many more officers before you get implementation of something happening on the ground

Some of the complaints were driven by local issues:

Q. You've not had any vexatious complaints have you that are unusual?

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A. That's reflected in the nature of the county council role and talking to colleagues the vexatious seem to occur in local communities and local parishes and go back many generations

<div align="right">IV07, p101</div>

Finding 4 -Lack of clarity over the requirement to maintain a Register of Interests

This proved to be a common theme that emerged even though it was not a designed specific question or follow up question. The Localism Act provisions with regard to a requirement to establish a *Register of Members Interests* again created a complex arrangement with ambiguity over the precise form of registers and district councils had no power to prescribe how the forms for the registers should be set out for the parishes.

IV05 observed:

> **A.** To me another complication is some authorities as well as having the statutory interests of disclosable pecuniary interests have basically put back in personal interests, we have not; that is an obvious difference you only have to look at web-sites to see some have imported the old personal interests in there and some have not and you could say that Parliament has said what an interest is and you have power to add in – but if Parliament has said it - does it make sense to add more in or not?
>
> <div align="right">IV05, p.72</div>

> **Q. How did you manage with the declaration of pecuniary interests – was that done quickly or did members not know or understand what it meant?**
> A. I think with completing the form some of the councillors in May [2013], even though they had completed a form previously still needed some hand holding to go through that. We have cracked that now in terms of completing the form – but when it comes to meetings they still use the old terminology and I don't think they really understand and if you were to stop one of them on the stairs and ask them what is a disclosable pecuniary interest – I'm not sure what the answer would be
>
> <div align="right">IV07, p.105</div>

A. the one bit which is not localism at all is those bits set out in the Act which are disclosable pecuniary interests and other interests and the requirements and definition are another minefield as to whether something is or is not and as long ago as the other day – we have issued new guidance

<div align="right">IV09, p.144</div>

Finding 5 - practitioners have little guidance or support from central government following abolition of Standards Board

The conversations revealed that practitioners felt they were very much out on their own in terms of how they managed complaints. There was diversity in terms of how complaints were filtered and what processes would be applied to ensure that vexatious and frivolous complaints did not tie up resources. There was some mention of the CSPL. The lack of national guidance following the abolition of Standards for England was commented on:

A. Ideally picking up things we all think are important drafting it in a style as I have described and we all play the same rules – and I fundamentally think that should happen – who's going to promote that with that authority? In terms of that I am a person who is wedded to the principle of you do need standards – I don't think you can rely on a few legal prosecutions - I think you need a standards code and it needs to be – of course we will carry on with our codes and do it regionally which is I think better than nothing – but I'd like to see it and if there are other standard things around the code for promoting what we need to do it more by all means lets have one national body to do it – I mean the Standards Board for England – my dealings with them – they were alright they issued good guidance they were helpful when I rang them with issues – they got into an awful muddle in a couple of high profile cases –which got discredited – but I thought they were unjustly criticised – they were vilified – my dealings with them they were reasonable – the guidance was good and we all at least played to the same rules the government went off on this track of not having it then they decided that you had to have it after all

<div align="right">IV03, p.44</div>

One practitioner commented that the role they take on as Monitoring Officer was very much on its own:

<div align="center">148</div>

Q. Thank you very much – it is a form of action research so I will be propagating to PLP what I have learnt so we have all got something from it committing to working with IV█ and Solicitors in Local Government and CSPL – thank you

A. I was keen to do it –because first of all there is no formal mechanism around how this regime is working – Monitoring Officers are lonely people professionally and this is very worthwhile

<div align="right">IV05, p. 79</div>

This was re-enforced by IV04:

> A. there is always a point in leadership - and leadership is a lonely place- when it's X or Y and the right thing to do is X although all the procedural stuff tells you it should be Y
>
> <div align="right">IV04, p. 54</div>

IV10 expressed the point about the Monitoring Officer being very exposed:

> A. Officers think why rock the boat and there is not much the Monitoring Officer can do and under the new regime is very exposed now under the old regime it was dealt with by the standards committee now we had independent members, the independent person is as far as I'm concerned a non–role it does not work, you can consult with the independent person.   But actually it is a non-role but we have not gone through any investigation so had no need to contact our independent person.
>
> <div align="right">IV10, p169</div>

Finding 6 - complaints against elected members can be politically motivated

The political dimension to making complaints was very strong with variations in terms of involvement of politicians. As seen above (finding 2) a significant proportion of complaints are by politicians against fellow members. Of complaints within the quantitative sample I decided it would be worth isolating and examining the level of complaints of member against member within the interviewed sample and their authorities and see if anything emerged regarding attitudes to training and leadership.

Member on member complaints				
Council	2010	2011	2012 to July	2012 July O/W
A	1	-	-	6
B	-	-	-	-
C	-	1	-	-
D	11	-	-	-
F	-	-	-	-
G	-	-	-	-
H	-	1	-	-
J	-	-	-	-
K	-	2	3	1
L	2	-	-	2
M	-	2	-	-
N	-	-	-	-
P	-	2	2	1
Q	1	-	-	-
R	6	5	-	4

Table 6.2

The figures for members versus members complaints revealed that Council A had under the localism regime six complaints. This was raised with IV01 who commented that;

> A. It's because of the political makeup of *Council A* and again the conduct of members generally – a failure to adhere to their rules of procedure when they are debating issues
>
> (IV01, p.10)

He added that:

> A. We have just re-written the constitution and going through the process of reminding members what the procedures are when they are debating a matter and certainly since we have done so the last two meetings have been much better chaired and managed
>
> IV01, p.8

This suggested that failing to manage conduct at meetings due to lack of chairing skills could rapidly lead to disorder and friction between members and subsequent complaints. IV01 observed that, 'Council B has no training and no promotion [of standards]' (IV01, p.11).

Examples were given at parish council level of matters getting charged with personality. Scepticism was expressed as to how complaints could be proceeded against leaders of councils by junior staff and other members of councils.

> A. There is the problem about the way some members deal with officers – some unpleasantness at times – do have issues about this at times does not tend to result in complaints under the code - senior officers tend to have the most problems but I say to officers – if you put in a complaint against a member – experience up and down the land is your career is finished – because unless you hit a real maverick councillor - they club together – chief executives who sought to complain against their leaders – in the end they don't last

> IV03, p.43

While the research was proceeding, a High Court claim[52] was commenced. It was argued that the arrangements may breach the Human Rights Act 1996 in that any committee set up to consider complaints had to be politically balanced according to regulations made under the Local Government and Housing Act 1989 which would reflect the number of councillors elected by party. The political balance means that the committee is going to be potentially politically charged. IV03 (p. 43) observes:

> A. I do think we have problems of unpleasantness between certain members and officers at heightened times such as election and things – it does get difficult we try to manage that by the chief executive writing letters to them or speaking to them – but has it actually got into the code area? – no – could the standards committee do much about it? – they have done the protocol to get the basics right – can they take a role in it? – bit tricky really – the standards committee – the administration dominate it anyway – they have got the votes haven't they because it's now proportional – I think the dynamic of dealing with, that is the chief executive and Monitoring Officer are able to use their influence and come about it the best way they can and work with the group leader where it's one of their group – it's all those sort of tricks are far more effective

This observation led to comment by IV05 (p.75):

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[52] Riley v East Staffordshire Borough Council [2013] However the case did not proceed to trial and was settled in February 2014 with Riley contributing towards the Councils costs - Uttoxeter Post and Times 27 February 2014.

A. I completely agree with that when you have got one councillor complaint against another – the Monitoring Officer is in a difficult position – if it is clearly not a breach of the code for example then you are probably alright – but if it does not quite meet our criteria and is all quite soft stuff then you are in a very vulnerable position and say need to put this in front of a committee

and

A. I think it is very important to work with the chief executive – one of the things we brought in when we had those two independent members causing us grief is the statutory officers have a monthly meeting – sometimes we don't have much to say -but it can be a very busy meeting - it has the advantage that everyone in the senior management team – everybody knows about current issues which otherwise they would not and they will know the stance because one of the things that your early comment read out is the role of leaders of groups – in disciplining their own members and one thing that struck me is how tough they are – if they think it is bad for the reputation of the group they won't tolerate it – they will knock people off the executive – particularly if the member is not contrite and backs off

IV05, p.76

Finding 7 - No consistent guidance of what is a breach of the Code of Conduct

The interviews revealed there was no clarity as to what really constituted a breach and a picture of inconsistency of outcome based solely on whatever was the prevailing attitude within the authority. See observations supra of IV03. The removal of the Standards Board and Audit Commission together with the refusal to prescribe localism standard measures nationally means that there is no consistency. This leads to the possibility that behaviour in one authority may be permitted because it is not found to be in breach of a local code or not even covered by it. Furthermore the whole system relies on someone making a complaint. It therefore needs someone to have knowledge of a breach and then go through the formalities of making a complaint. As each complaint will be filtered the reality is there needs to be some evidence for intervention. IV03's comments were received positively by other interviewees. IV02 made the point that local codes will be different because that is what the Localism Act sets out to achieve. As the 16 January 2013 debate revealed attempts to establish a common code were not welcomed by Parliament.

<u>Finding 8 – lack of definition of the role of an independent person under the Localism Act</u>

The sole official guidance was a letter dated 28 June 2012 from the under Secretary of State at the time Bob Neill he said:

> Accordingly, I would particularly draw your attention to the role of the new independent person. This is in no way similar to the role of the independent chairman and independent members on the former standards committees. That former role was principally to be involved in the determination of allegations about misconduct of members. In contrast the role of the new independent person is wholly advisory, providing advice to the council on any allegation it is considering, and to a member facing an allegation who has sought the views of that person
>
> <div align="right">Letter 28 June 2012 from the under Secretary of State
for Local Government and the Communities</div>

Prior to the Localism Act the previous legislation had required an independent non-political party chair of the statutory standards committee who participated in decision making. IV05 commented that councillors were harder on other councillors:

> A. They are actually tougher than the independent person – who would say oh well oversight busy on the day forgot to do it whereas the fellow member says well the rest of us have to do it why did you not do it – they are actually far more tough – they are less tolerant of their colleagues than the independent ones were
>
> <div align="right">IV05, p.66</div>

IV██'s authority a county council set up a scheme which covered the county and the districts:

> **A.** We are members of PLP so I was involved and went along but as a ...group of Monitoring Officers we worked very closely together to develop the code and bring through the arrangements. At the time I would have been involved in raising awareness for all the new councillors we had with the county council. The others would have done this too. We also went through the recruitment process for the independent persons. There are six for the County Council and eight across the county. What we decided is we would appoint eight and each appoint one but we could use anyone of them. Two of them we don't use,

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which is why I said six, is because they were on our standards committee. We got them together carried out a training session and raised their awareness as to what the issues were and the sort of things they were likely to be involved in. As part of the induction process following the May elections there was quite a substantial induction programme for councillors which took them through an awareness process as to their obligations under the code of conduct and then what that meant in terms of complaints that had been received and then more specifically for our audit committee which has responsibility for standards

But this was not universal:

A. We only have one but he is so responsive pragmatic down to earth – I've quite enjoyed it actually

IV08, p.124

A. Yes – the appointment of the independent persons at the time we brought the code through cabinet and through council cause the most issues with one particular member who wanted to scrutinise the appointment process and their independence otherwise bringing the code in was fine but in terms of behaviour members it is the same as before the regime came in

IV10, p.169

Finding 9 - Lack of clarity regarding leadership for standards

There was little evidence of leadership being taken up to promote standards or pro-activity in terms of encouragement or press releases. The Localism Act section 28(1) provides that a relevant authority must secure a code of conduct which inter alia is consistent with the CSPL's Nolan *Seven Principles of Public Life*. The seventh principle requires leadership, as being:

> *Leadership* - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.[53]

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[53] This is a revised definition by the Committee proposed in their 14th Report January 2013. The original definition was: 'Leadership: Holders of public office should promote and support these principles by leadership and example.'

However the concept of leadership is built on the other six principles of public life and requires that the leadership be demonstrated by promotion and support. This is essentially the Localism Act section 27(1) duty[54] spread out to members. In the interviews the lack of clarity was evident. IV01(IV01, p12-3) commented, 'leadership makes a difference on my experience in Council H – in Council A , I can't see any leadership at all because there is no standards committee and at Council B they have no idea what leadership should be about'. IV04 identified that leadership was a cultural problem commenting:

> *leadership* was the seventh principle, and was seen by them as the overarching one. We have increasingly in *Standards Matter*[55] moved to focus on leadership; and specifically in local government - that's me speaking, not the committee – I think local government has been very lacking in providing strong leadership and brand leadership on the issue of standards. I point the finger at the Local Government Association and at many, not all, and I have seen notable exceptions, many leaders and many but by no means all Chief Executives. Standards in local government to my mind have always been seen as a terribly 'processy' and procedural and disciplinary code
>
> IV04, p.49

He further commented:

> how many leaders give interviews or made opportunities in council things to make the point – we have been freed of this bit of bureaucracy – this is what we are about we are going to do it well – I bet none have – again I come back to the equal opportunity requirement where in discharging a responsibility local authorities will have done a great deal of publicity –point is lots of work on equalities fine examples – they have the same responsibility to promote good governance under S.27 but nothing like the resources or thinking – one suggestion is the leader should make a statement and say this is what we are going to do
>
> IV04, p.57

This view led to IV05's opinion:

> A. Yes I think that is right – I think that's right and I think it's wider than that – I have just signed off the draft Annual Governance Statement – and to me that is part of – to me you

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[54] The Section 27(1) Duty is on relevant authorities e.g. parish councils, district councils ,county councils and unitary councils etc
[55] Publication by CSPL

can't look at this standards in isolation – there is the audit committee annual governance dealing with the auditors the external auditor one of the things I do is always keep the external auditor informed of all standards issues – to me it is part of the governance of the organisation needs to know what is happening

<div align="right">IV05, p.77</div>

Finding 10 – Complaints from the public tend to relate to formal council business that directly affected them or are about behaviours at meetings

The picture emerged that the largest source of public complaints was about planning for district councils and the perception of fairness of planning committees.

> The Planning Committee and the behaviour of its members was a major source of complaints:
>
> A – Yes there are – I can say now that they are all related to planning matters
>
> <div align="right">IV01, p.7</div>
>
> A. We had seven complaints from one meeting of the planning committee where the complainant complained about everyone who voted contrary to the way he wanted them to vote.
>
> <div align="right">IV02, p.19</div>
>
> A - ... I would say planning does tend to get more – it's ripe for complaints simply because the code tends to get triggered in the context of planning more than other areas
>
> <div align="right">IV03, p.30</div>
>
> **Q. In terms of complaints from what you get, is it like others tell me about planning matters?**
> A. Yes I think it is and even those not necessarily about planning have their roots in a planning problem or planning process per se or tangential to that
>
> <div align="right">IV09, p.141</div>
>
> **Q. This is the recurring theme of pretty much every single district council. Is there probity in Planning?**

A. It is – absolutely we have other regulatory functions such as licensing but we don't seem to get the issues – when you think about it planning affects everybody it affects their human rights – when they have a lovely view and there is a big development – they have to rise above it –when we have a difficult matter before planning committee – I am ███████ and we have a specially packed public gallery they are out in the atrium it is difficult for members and when you do have one or two vocal members who are in bed with the developer that makes it even more difficult – and that was the difficulty we were having with that member at the time – so prior to that (those complaints were 2009-10) the history of the local authority was just the odd complaint around behaviour – I understand back in the 90s prior to me coming to this authority we had similar issues with the same member as it happens the ombudsman got involved – he stood down before any sanction could be imposed on him. There's a whole history, a chequered history

IV10, p.164

With parish councils it was more about personalities. Inevitably this has an effect on public confidence because it will only be misbehaviours that will get reported in the media. IV04 commented:

A. I now think that as local government is one of the few self regulating sectors now because the external element has been taken out of conduct and behaviour they should be doing more on the leadership thing both at the national level and local level it does speak to public trust

IV04, p.50

and

A. while long term public confidence in institutions has declined nevertheless it spikes and was going up, then MPs' expenses came along but now it's going up again, so our message - and it's very germane to what you are doing – our message is that if public bodies do grasp these things positively and communicate to their communities that they do take them seriously and walk the talk in terms of actions and follow up the cases they do that's good – our long term surveys show the public is innately sceptical that the organisations will root out top people who have breached codes or what ever it is - but when they to see when someone is brought to book and something is done about it they are very reassured

IV04, p.50

The question can be how does the public learn of the misdeeds and remedy if it is not reported? Local newspapers were discussed:

> **Q. This is where the Minister is spot on the importance of local newspapers?**
> A. Although they are eroding fast - with this if there is a fairly simple view that somebody has said or done something dreadful and should resign - it's up to them they are in the court of public opinion as Harriet Harman called it but that's rather a dangerous concept and they have got to decide what to do – one of the problems of the old system of course – was when people were not found in breach often on a very narrow technicality – the public hate just as much that dreadful phrase – 'no rules were broken' which we heard around MPs' expenses – members hate that and some members even when they had been found not in breach on a technicality were almost exalted, almost wore it as a badge of honour that they had been done by the standards committee once, twice, thrice – it did create an unhealthy sort of mentality – maybe just having to stand the test of public opinion and maybe not be nominated next time by your party might be proportionate - but these are absolutely the things we will be making a judgment on in18 months to 2 years time
>
> IV04, p.60

Finding 11 – there is a lack of a meaningful dialogue with national government regarding codes of conduct

When the relationship with central government and whether local government can self regulate was raised, it led to observations about the minister Brandon Lewis's comment in the Westminster Hall debate:

> we had this letter from Brandon Lewis saying you have this 'gold-plated', everything nowadays is gold plated not the light touch – I reported the letter to the Standards Committee and asked them what do you want to do – stuck with what we have got so we have the ability to say no to the government and that's very much what we have done under our own thing
>
> IV02, p.21

But IV04 saw the matter in a different light:

> In fairness to the Secretary of State he is saying you have got to have a Code – and Bob Neill has written his article in Municipal Journal complaining that Monitoring Officers are

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gold plating. I have to say from my experience at the Standards Board that is a crime that some Monitoring Officers do stand convicted – it does not surprise me that some people detect that element around – there is that 'what if the Martians landed?' sense

<div align="right">IV04, p.56</div>

Further comments on self-regulation by local government, were:

A. On the one hand I get the feeling certainly amongst the current government the attitude has changed in that they were willing to rely more on local complaints and accountability at the ballot box   - I don't regard that as satisfactory I have to say particularly at a large authority where there is a distance but even more so where a cabinet member has a responsibility for upwards of a million pound plus portfolio accountability cannot rest on an almost unenforceable code and the ballot box, that is not accountability for that scale of public office – as you may gather I'm not on board at all that you give responsibility in the way it's been given that will effectively ensure that people are held to account – it won't and of course the biggest concern is that there will be someone who will take advantage who has access to significant funding and to channel it in some way – not directly but in some indirect fashion and the mechanism to hold a powerful politician to account in a county authority were it to come to that would be woefully inadequate - because the only accountability is by the police and you need good evidence and you won't always have it even when you know there are grounds for concern

<div align="right">IV06, p.86</div>

Finding 12 - the whole localism standards process was rushed and created new workloads

Here the Localism Act conundrum manifests itself in the replies. In that to be local it had to be dealt with at a local level and it was clear that the implications of not getting guidance spelling out to councils or their officers what was expected, led to them to find their own way to establish a process at a local level to manage complaints. Inevitably some authorities utilised the old procedure and amended it others got together to devise a common procedure. These interview replies illustrate approaches:

Q. OK – Can I ask a follow up from that – you have parish councils I think it's 2█
A. Yes there are 2█ parish councils and one town council

<div align="center">159</div>

A. Because of the timing which was a key issue at Council ▌ I arrived literally in just enough time to hastily put something together and get it adopted. So there was not a lot of time to get it together. Like my colleagues have done but I literally picked it up and had to do it from scratch when I arrived. Barely a couple of months to get something in place

<div align="right">IV09, p.140</div>

Q. Any key significant changes

A. I think the biggest issue is what the CSPL has badged – how independent a system it is and how will the public feel – it's perception whether this is an improvement or not – I genuinely feel they think it's all a bit of a closed shop – they deal with the Monitoring Officer who is in a much more invidious position we have to screen and decide whether something goes forward to investigation whereas previously the committee would take a view in the round whereas now it's very much up to us and I think the intention was we would give it scant regard – that was obviously one that was not going to go anywhere – I find to the contrary if I have to write to a member of the public and I have to consult with an independent person

A. I need to set out my rational and my thinking and almost have a mini investigation on what I have received in an assessment of the case and that is really time consuming and I don't think that was appreciated. That is something I have flagged with the Governance Committee and my time is being far more taken up with complaints coming in

<div align="right">IV09, p.143</div>

6.5 Analysis of Interview responses to Objective two - To establish what are the Critical Success Factors (CSF) to delivering the Section 27 duty to promote standards?

The interviewees were asked what in their opinion were the right steps in their perception in terms of promotion of an attitude to setting standards, leadership and culture?

The themes which emerged as Critical Success Factors were:

- Active promotion and leadership on a standards culture by the political leader elected members and chief officers
- Importance of the existence of a standards committee, as it appears to establish some order and process
- A preference that there was consistency in dealing with complaints and same codes for all
- Need for members training in standards, interests and best practice
- Active management of cases
- Getting the role of independent persons defined
- The use of one to one sessions by the Monitoring Officer to discuss the code of conduct, the training requirements and seeking from the member.
- Specific outcomes in terms of key measures of performance (identified by the CSPL) of evidence that:
  - The section 27 duty has been taken seriously – demonstrable evidence – not loads of paper – that it's biting into the culture
  - Evidence that the people appointed as independent persons are capable and the role is capable of being delivered – because it does have some inherent tensions in it
  - The acid test around the new arrangements is then; evidence of public confidence

Critical Success Factor Finding 1 – There must be active promotion and leadership on a standards culture by the political leader, elected members and chief officers

Promotion of standards in terms of leadership was raised with the interviewees with the objective 2 questions. IV01 commented on leadership:

when complaints are coming at Council B– although I notify the member that he is subject of a complaint – the member goes and talks to the chairman as a pre-emptive strike – they will copy in the chairman and the group leader – it is a mess in terms of proper standards of behaviour – so yes I think leadership makes a difference on my experience in Council H

IV01, p.12

IV03 observed:

In terms of leadership for standards – it is important that you have the chief executive and the Monitoring Officer – the way that we deal with members and the relationships you build is key to it – not just with the administrate but also the other groups – if there is some form of integrity we can demonstrate to all members we can demonstrate that we are trying to do things properly for all of them then that helps us to maintain standards and where there are problems to deal with it. If you have got – group leaders who you can work with – if I worked from an authority led by people who had no regards to standards -very strong – took no advice from officers – it would be a much more difficult challenge – whereas the environment I work in is that you have got an independent group very strong now – still the people when they come in here they are reasonable people to deal with – I'm not going to say I get everything I want but building up that relationship but with me with them – I go to most of the main committees so I am dealing with the opposition groups all the time as well as the administration and the chief executive – that dynamic between the chief executive; me and the members is the key to ensuring standards are going – kept going – the standards committee because there have not been too much problems they have not needed to get involved to radically change things – we did introduce a new code of member officer protocol three years ago to try and deal with some issues that had arisen about members drawing officers into things and get as much buy-in as possible

IV03, p. 42

A picture emerged that the standards agenda was observed more in terms of *maintaining* high standards as a position with little active *promotion* of high standards. This illustrates the recurring theme of culture identified in the objective one question responses. If there was no culture of promoting best standards of behaviour then the councils were reliant on the character and integrity of those in a position to influence. IV04 expressed the need for leaders living to the standards they espouse:

all the literature shows the more change you make as leader of an organisation the more people look at your own personal integrity – we had a wonderful phrase which came from one of our Chatham House seminars which came from the private sector: 'crack at the top chasm at the bottom' and we had reference to Elizabeth Filkin's report on the Metropolitan Police dealings with the press which was settled in the aftermath of the hacking scandal – one of the three reports – she makes the point – where police were talking to journalists and in receipt of all sorts of favours – she quotes if you see your boss filling his boots you should not wonder if I say I can have a little bit of the action as well - so the whole system is about exemplification - a system of conduct which is much more important than codes – the classic example of banks who have super codes, but we have seen connivance / cover-up at the highest levels and seen the effect it has on staff morale and on public confidence

<div align="right">IV04, p.51</div>

and

and also the American firms and the best UK firms, are increasingly recognising good governance in its broad sense is something that the board should be pro-active about – and that's my other criticism about local government -it is that it has almost seen it as a virtue to be reactive about standards – I remember when the Standards Board was doing road shows about going to local hearings a very respected leader saying 'well they have got all the machinery, they have got a good standards committee, they got a good external person and he hoped they would never have to use it.' That was a good leader who I am sure had great personal integrity and it was a good authority – whereas there has always been that view that somehow standards is a bit of dusty machinery that which you put in the cupboard and hope you never have to open the cupboard – it has never been the pro-active bit of good governance that has been signed up to

<div align="right">IV04, p.52</div>

IV04 continued:

how many leaders given interviews or made opportunities in council things to make the point – we have been freed of this bit of bureaucracy – this is what we are about we are going to do it well – I bet none have – again I come back to the equal opportunity requirement where in discharging a responsibility local authorities will have done a great deal of publicity –point is lots of work on equalities fine examples – they have the same responsibility to promote good government under S.27 but nothing like the resources or thinking – one suggestion is the leader should make a statement and say this is what we are going to do

<div align="right">IV04, p.52</div>

IV05 was briefed in the interview on IV04's view and agreed:

> Yes I think that is right – I think that's right and I think it's wider than that – I have just signed off the draft Annual Governance Statement – and to me that is part of – to me you can't look at this standards in isolation – there is the audit committee annual governance dealing with the auditors the external auditor one of the things I do is always keep the external auditor informed of all standards issues – to me it is part of the governance of the organisation needs to know what is happening
>
> IV05, p.77

However IV05 confirmed that for his authority the leadership had made statements in support:

> **Q. Has your chief executive and the leader made any statements about the new regime?**
> A. The leader did – he was very critical of the old regime for a variety of reasons and very supportive of the new regime – he is very pro-localism and been supportive of that – that's why we tweaked filtering process last year because he was interested in how it was going what the responses were what the levels were and he does recognise you have to balance the vexatious – 'I don't like it complaint' to the serious there might be an issue here we need to investigate'
>
> IV05, p.67

And continued:

> What I have said to the Leader is really the executive should establish the lead and should be saying very much [Localism Act] Section 27 matters and good governance is important and Scrutiny has a role in that obviously the Monitoring Officer has their place in it but really it should be lead from leader from the understanding it really matters to the organisation
>
> IV05, p.71

There are however risks to the individuals who take on leadership on standards of clashing with other considerations, IV04:

> **Q. It's seems to be as much about reputational management[56] as much as ethical asking what is this going to look like as opposed to – is this right thing to do?**

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[56] See pages11,24,40,134,135 & 137 of Casey (2015)

'A. Instinct versus legal advice as well – yes I think that is right – that does go into other sectors –for example ███████, new Chair of CQC gave evidence to the Health Select Committee last week around why they didn't at first name the people – ███████ the Chair said the next day how much he regretted not naming – it was a case where the instincts of being transparent were overturned strong point by legal advice on Data Protection and there is always a point in leadership - and leadership is a lonely place- when it's X or Y and the right thing to do is X although all the procedural stuff tells you it should be Y

IV04, p. 54

During the interviews the underlying culture of the organisation was raised as being a CSF in the promotion of standards. As observed in the Berwick Report (2013), the culture in the Mid Staffordshire Trust made it difficult to promote patient safety. IV04 commented:

that there are maybe bullying and oppressive behaviour sort of stuff that falls out of the new code, and totally inappropriate comments, and you can get a combination of the two – although it has to be recognised where the courts have got to on offensive comments and post Livingston and so on and free speech and Article 10 – is it of the Human Rights[57] right to free speech? Especially in a political environment will start to make that difficult. I have not noticed, the Committee has not noticed, and what we will be testing, is whether since the scaling back of standards that more evidence of bullying and bad corporate behaviour or poor leadership is having a deleterious effect or not; and we couple that with our broad concerns about whistle blowing and we note what Public Concern at Work and the Whistle Blowing Commission have recently said about local government and the health service coming very low down on whistle blowing. Again, in terms of the good governance standard and the delivery and the 'Sienna murals[58]' aspect of good governance, whistle blowing should be a safe and active thing to do

IV04, p. 58

IV06 made similar observations on culture to questions:

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[57] Article 10 – Freedom of expression note recent case of <u>Dennehy –v – Ealing LBC [2013]</u>
[58] The <u>Allegory of Good and Bad Government</u> by Lorenzetti – an early Renaissance fresco on the walls of the Town Council Chamber in Siena, Italy.

A. Well I think what the biggest problem is insidious bullying and corrupt cultures – it's trying to tackle it without a clear framework - undoubtedly will become an issue in the future – I have no doubt on that[59]

Q. One example was Doncaster – I remember going to the Local Government Weekend School many years ago after the Police were involved and a solicitor there told me it had not really changed and a colleague of mine (Director of Corporate Strategy) was up there as an intervention – I read two weeks ago there is further intervention – it just has not changed. The message about this is that in some cases self-policing does not always work.
A. No –indeed not – I remember having a discussion with IV04 about we were actively dealing with issues a few years ago about the insidious nature of cultures that go wrong in local government – it's bullying – if a member lashes out or bawls them out its fairly simple and obvious to deal with – but its often not like that or normally not like that the behaviour and threats are more subtle and the nuances are not easy to understand and without an external regulator – its only a matter of time before we get another Doncaster or whatever

IV06, p.84

There is also the question as to how much the Leader can command authority particularly where there is an opposition or challenges from within their own party:

A. If you have got a strong leader and you have also got a political group also strong in dealing with matters of conduct then that will work well but the difficulty is you are not going to get it nationally – you are going to have pockets of it now - here we had actually experience of that when we excluded a member for six months. The gentleman concerned was a very powerful person - he is very big and very strong and projects his voice and there are members who quite frankly fear him and can be intimidated by him and so the standards committee excluded him for six months and there was an ideal point to deal with him politically and there was an indication they would do so but when push came to shove they were not strong enough to do it and officers our confidence went in the new regime because politically it's not there

Q. This is not dissimilar to ... Lord Hanningfield?
A. Yes and that's why you need a body of people that are separate from the organisation because making those difficult decisions particularly when we are coming up to the next general election it does not matter what behaviour – if it means they will be getting a vote for the party then they – will oh he's been a naughty boy and the difficulties the public have

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[59] This was prophetic, see Casey (2015, p 28) 'An Unhealthy Culture'.

very short memories – we won't vote for you if you let that planning application through but come the elections they are saying that now   but something else will come up

Q. This is what other Monitoring Officers have said to me the Pickle's response – you don't need sanctions – you have the sanctions of the ballot box – well that's all very well if the election is 8 or 9 months away but if it is in year one not going to make any difference
A. It's just not going to work –that is why under the old regime although it had its faults it did work ok. What they did is throwing the baby out with the bath water – if they had asked Monitoring Officers rather than criticising them for advice - Monitoring Officers would have said away with the bureaucratic investigation of the Standards Board – have your standards committee chaired by that independent member that should work so Members are not standing over other members as judge and jury or to use it as obviously as to batter the opposition

<div align="right">IV10, p171-2</div>

The issue of culture and how to bring around change for improved standards was developed further:

A. Training and awareness that is an obvious right step – have a structure – not the be all and end all but at the end of the day it's obviously the culture of the organisation which determine the behaviour but culture can be influenced by having the right structures in place – does not always protect an organisation as structures can be undermined like everything else can - but you expect to see them - standards committees are more problematic now particularly in local authorities where there are few complaints – I think authorities do struggle to find a meaningful role outside regulating the actual code or process of the code and most of it is specific that is around actual incidents which it has to be rather than asking what culture do we want and what can we do to promote a good governance structure – I don't think most local authorities are up for that type of approach. On the other hand at Council G for example there is a clear corporate governance structure which I chair outside of the standards committee and has the active involvement of the leader of the council and other statutory officers and key officers which meets regularly and considers matters of governance and standards. I think the standards committee has an important role but so too does the leadership - critically important role and as the leadership is not going to be on the standards committee then clearly having a structure where the leadership of the council is showing it is committed and is actually involved in the setting of standards etc is something you would expect to see and I think that is regardless of what statutory regime is in place because – because the culture is the most critical thing

– the law can help culture and structures can help culture – end of the day culture is set by those who wield the authority

Q. Berwick Report -it's living the values – the banks corporate governance - BP guidance but major disasters – its question of living the values?
A. Yes my point is culture is all pervading goes back to the insidiousness of culture how it can creep in. It's not look at this incident, look the culture is wrong. It does not operate like that – it's something that builds and grows slowly – but if you want the right culture you help it by having the right standards. Having training a corporate governance group with the leader none of those things will guarantee the right culture but if the will is there they will help collectively the organisation abide by good standards.

IV06, p.85

As the interviews progressed repeatedly the tension between localism, standards and culture emerged during discussions on *Objective two*. Culture was being established as being a component that would need to be engaged in the formulation of Critical Success Factors. IV09 spoke of the perception that there was a gap between the view of the Committee for Standards in Public life and government policy:

Q. I'm thinking about a couple of things really, the 14th report CSPL – newspapers – people fighting for political lives I'm thinking about promotion
A. I think it's quite interesting the 14th report CSPL – they have a particular stance they want an awful lot done in this area – and that is completely at odds with what the government has tried to introduce – partly a lot of challenges an authority which did not have problems in that area would be spending a lot of money on promoting the standards and the duty that goes with it – I think in terms of what they have said in the 14th Report – I think it's quite clear that attitudes to standards are not being matched by the reality – because what they identified in the latest report and the survey that's been produced about concerns of the public – you have had all the scares and issues on members' expenses and all that and they really don't understand when they want to complain nothing is going to bite or do anything about it with something so significant that anybody with half a brain would want to take action

IV09, p.149

The culture point was elaborated on in the interview:

A. To that extent I definitely agree, I do absolutely agree – end of the day the culture is really key – I don't really mind if I don't have a seat provided when I speak and make a contribution I am listened to – I am not so status orientated to believe that when I have something relevant and pertinent to say it will be taken into consideration – that's the real issue for local authorities and other large organisation the culture of we don't want to hear the problem – just hide it under the carpet and then people feel they are, as IV06 puts it, being sidelined and make the points sure that things improve and that it's right from the top and unless you change what is at the top you either put up or shut up – you have to make your own personal decisions – I have actually left an authority – ... but I decided the culture was such I did not want to stay any longer and that personally the culture was not a good fit for me. It would not matter how much I argued or spoke up I knew as IV06 says I would be marginalised and you make your own judgement calls ...but at the end of the day if every authority was that bad – you would have nowhere to go would you?

IV09, p.153

Critical Success Factor Finding 2 – Making use of a Committee with the objective of Maintaining and Promoting Standards

Standards committees though no longer required by law varied in terms of presence. While their existence was not obligatory their absence does not instil confidence as these comments illustrate; IV01 who had been a Monitoring Officer and worked with four Councils (A, B, G, and H) observed:

A. At Council H they moved all the terms of reference from what was the standards committee to what was the audit committee so one of the things they did was to get rid of the standards committee and in my view that's a perfectly adequate method – and they did have a very pro-active terms of reference so they went beyond the minimum under old regime – we expanded it considerably – at Council B they decided to keep the joint standards committee with the parish council representatives on it maintaining the old role of the committee and terms of reference and until I had a code of conduct complaint coming in I did not anticipate we would have any meetings this year so in many ways their function is quite muted . At Council A they don't have a standards committee at all and the terms of reference have not gone anywhere at all so at Council A there is no committee which has

those functions... in terms of Council A - a complaint is made, the Monitoring Officer puts the papers together and they are looked at by the Monitoring Officer, the independent person and the relevant group leader and they make a decision on the papers – it is quick and dirty – it gets the matter done – it is in with the objectives of localism in getting the matter done – but there is no investigation – it is not far off the old assessment stage – I only sat in on one and there was not a consensus amongst the three people sitting there as to what should happen next

<div align="right">IV01, p.10</div>

What is the role of the standards committee and what should it do? IV01 commented:

In my nine years at Council H I do believe the standards committee should lead on it – council agreed to extend the terms of reference of the standards committee so that it included everything from standards to whistle blowing to ombudsman's reports, any cases where there was a breach of conduct and what was good there was the committee led on it – in that each of their meetings they would bring in the chief executive or a director e.g. of social services and each of the directors would be asked as to what they were doing to promote good standards across the members and officers and it was a difficult time for the chief officers as they had not been asked on that and again group leaders were called in and so my view is that the committee were passionately committed to a good standards culture which is down to a good committee chairman and again an independent person as chairman is key to that

<div align="right">IV01, p.12</div>

IV03's reply considered that regular meetings would assist:

I think the standard committee could meet more frequently to lead on that but because there have not been any significant problems or changes since the code had been put in – yet there is an issue as to whether they need to do a bit more being proactive they are not failing but there could be a bit more done on the subject – the thing is I have looked on other websites and it's difficult to regularly have enough business to call a meeting – when you don't have any problems coming up

<div align="right">IV03, p.36</div>

This is a cultural approach to business as local authorities do not call meetings if there are no items tabled. Overall the picture was that the presence of a standards committee

was beneficial, however this did not mean it amounted to a critical success factor - the real challenge was leadership on the maintenance and promotion of standards which requires leadership and will be considered later.

Critical Success Factor 3 - Establishing consistency in dealing with complaints and same codes for all

This was expressed as a key element to fairness. It was argued that the same actions ought to have the same consequence irrespective of the location of the council. This is well set out within IV03's comments. During the interviews from IV04 onward IV03's comments on consistency were aired in a summary of findings so far. No interviewee disagreed or sought to make a distinction. As there is no mechanism to set national standards indeed that is contrary to *localism,* then only local initiatives will establish common processes. In the case of Council H the pro-activity of that council and its districts councils had established commonality and co-operation in working. However it was clear from the interviews that the district councils which accounted for eight of the interviewees were not in possession of all the details relating to their parish councils. Furthermore as both county and district councils are both 'principal councils' under the Localism Act neither authority has obligation to work with each other. This creates a significant burden on the district councils. IV03 thought that if the entire membership could sign up to the code they may all back it. However while this might be possible with a unitary council which had elections every four years district councils elect on thirds with one fallow year thus a code would be under constant change and flux. Overall IV03 supported one national code.

Critical Success Factor Finding 4 - Need for members' training in standards, interests and best practice

As an insider I took the need for training of elected members as a 'given' and a basic assumption (Coghlan & Brannick, 2010). However I decided to see if there was any legal

obligation to provide or attend and established that there is no legal requirement at all. This is true even when acting quasi-judicially as for example a member of a planning or a licensing committee. In practice because of the complexity of the role and the consequences to the local authority and the individual member of a risk of a judicial review by the High Court due to biased or bad faith decisions, induction training is very common for elected members but not universal. In the case of the researcher's authority it is a requirement in the Constitution[60], but that is a matter of local choice. The Local Government Association in its Guide for new councillors' states: 'Most councils offer induction courses for new councillors to familiarise them with their new role and with how the council works' (Guide for New Councillors, p. 21).

IV02 a Monitoring Officer for a principal council and 5█ parish councils provided training which was accessible to all members and advertised on Council C's website, he added that, 'only one tenth if that turned up' (IV02, p. 22). More training was provided for planning because of probity; however he did not have the resources to go round all 5█ parishes. IV03 provided personal training on a one to one basis and covered the code of conduct together with a provision in the Constitution that 'members have training before they do anything' (IV03, p. 33). This seems a straightforward solution to cover the lacuna of no legal requirement for mandatory training for Members.

IV05 responsible for Council F and 4█ parish councils explained:

> most members take it very seriously and are eager to seek advice, are interested in the advice they receive, question it want to discuss it further – one or two who think it's a form of imposition and don't want to know but we have done a lot of training with members, more than most both in-house and outside of it – I think the only way under the old system you could assist members to operate within it was to do a lot of training and under the new regime because there were so many misconceptions with things coming out of the press that really one or two sessions were dispelling the myths that were out there - we are trying to broaden our training a bit now
>
> IV05, p.63

Q – So publicity and training did you provide training for all the members for example in licensing and planning matters?

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[60] The Constitution is a legal requirement under Local Government Act 2000

A. under the new system we provided specific training for the standards committee for all members parish members and clerks – I then ran another catch-up session we did a reasonably thorough job of that'

Q. Is there a member's programme?
A. We have a members training accreditation signed up scrutinised

IV06 explained that while training was vital it must be able to address the culture too and that while training and awareness are the obvious right steps it was not the be all and end all as it was, 'the culture of the organisation which determine the behaviour but culture can be influenced by having the right structures in place' (IV06, p.85).

In the case of H County Council, work was carried out with other Monitoring Officers to raise awareness as they shared independent persons the provided a training session for them too. The interviewee stressed the importance of induction. Furthermore the customer rights team provide training for members on how to respond to citizens as an example, 'give councillors techniques if they are stopped in the freezer section of Tesco's and caught totally off-guard they don't think they are on duty at all and someone will launch into something so there are a number of techniques up your sleeve' (IV07 p.108).

In addition IV08 the Monitoring Officer at Council H attends political group meetings and offers to answer questions.

IV10's approach was to seek to regularise training so as to take place before meeting:

we tend to concentrate our efforts on the planning committee and I concentrate my efforts to do training on a regular basis we have training with planning prior to every planning committee – so we have a training session before every meeting there is so much coming through changes in regulations - in policy and every now and then we will slot in something about standards in an appropriate time if something comes from central government or something members should know about – we'll either do a stand alone or link in with what ever the training is for that session – we have found it works extremely well   - we found members turn up for that something like 99% of our members turn up for training and we also get members not on planning coming along – it works really well they are here for a meeting – don't have to attend a separate session for other members. The last time we put

some training on probably soon after the new regime came in it was not terribly successful unfortunately the trainers were really not up to speed they did not understand – it's all very well looking at it from paperwork and books and things from that the Monitoring Officer and I took a view; we were having to chip in so many times we would have been better off running it ourselves – but sometimes it's better to have a different face to maybe the same message – just talking to a member when we have something sensitive – you pull in the chair or members again before you get to the committee meeting itself you have done all the background work and certainly interests before planning committee- after we have done the training the Chair will say 'if you have an questions about interests *IV10* is here to discuss it' – and it's much better to do so before you are in the public arena and members do take that opportunity and again if I think someone has an interest I grab them before we go into committee – that works really well for us much better than having a debate across the chamber as to whether someone has a discloseable interest we have put it out on web cast

<div align="right">IV10, p.10</div>

But training was not enough:

A. I think this is a very difficult one – the reason I think it is difficult is because power and duties the local authority has they actually have don't match there being a duty to promote standards – very few sanctions we can impose for breach of the code the actual things which could be a breach have reduced - details about police prosecutions are unclear people don't understand it police don't understand it-   we are all struggling with that – what is really serious we don't know until we see it is obvious – I think also the whole concept of what it means to have standards in public life is not clear because there is no national standard so one person in one part of the country may expect a different standard from another part of the country and I can't get my head round that either and so it is quite difficult to say what are we promoting what is relevant to their local area and if you don't as we don't have huge numbers of complaints it's hard to see what you are trying to improve and adjust. On top of that it is important to understand that the code of conduct is part of a huge suite of documents and processes that local authorities have. We deal with ordinary complaints, about officers, about service provision - we deal with issues about the transparency of our decision making – freedom of information requests, Information Commissioner challenges all are under governance as far as I'm concerned and standards in public life and therefore it's not a simple issue as to what we do about the code of conduct – it is a tiny blip in the total agenda – I think people are far more concerned about understanding who's taking decisions, on what basis they are taking decisions and whether

or not they can comment on them and get involved – I don't think it's an easy question to answer and I don't think training is the answer it's about trying to embed good practice in the Council and I think it's our auditing reports and our year ending reports sign off as part of our CIPFA process and good governance - is a better way of doing it and thinking about the whole package and whether or not it is working and where we make improvements

<div align="right">IV09, p.144</div>

Critical Success Factor Finding 5 - The value of active complaints management

The Localism Act had given more freedom to manage complaints casework and thus resolve matters. The following quote by IV03 shows the increased freedom and making use of the independent persons:

> A. The Monitoring Officer has a bit more ability to knock things out at the beginning, under the old arrangement it had to go to the assessment sub- committee whereas now if it does not meet the criteria all I have to do is discuss it with the independent member, I do it formally with a proper written report so there is an audit trial – they all get knocked out at that stage proper process but less process than before and I do find that better – the only thing I would say is that is alright when they are members of the public against councillors but if it is inter-councillor complaint which I've not had under the new regime – I would find it difficult in knocking them straight out because depending which characters they are as I'm seen personally as sticking two fingers up at one councillor or the other I'm rightly in the firing line so while I'm consulting the independent person it's still sort of my decision isn't it?
>
> <div align="right">IV03, p. 37</div>

> A. If a member came in and said can I put in a complaint about another councillor – I'd dissuade them – unless it was very serious as you aren't going to get very far – but if someone was abusive in the council chamber it would trigger the code wouldn't it
>
> <div align="right">IV03, p.41</div>

> A. Yes I sift them - we changed it at first as long as it was a more or less bona-fide complaint that made sense and was not just a rant we would put it up to the committee – there were one or two I had to put forward but it was obvious they were not going anywhere – there was no loss no had suffered no one had been mislead so we went back to Council last year having had a discussion with the executive along the lines I would do a more

thorough sifting process. I have a five criteria fairly basic stuff to weed out – what I have found in practice they are weeded out because they are really not a Code of Conduct Governance issue – I don't like what Councillor X said at such and such a meeting not that Councillor X did anything wrong in the general sense but he expressed an opinion which the complainant is opposed to- for all sorts of reasons they try to read in things into it

<div style="text-align: right">IV05, p. 66</div>

> ### *Reflection*
> *I noticed from the interviews that my initiative at Council N of Active Complaints Rules did not appear to be replicated and identified it as a possible information item for the governance Special Interest Group.*

Critical Success Factor Finding 6 - Defining the role of the Independent Person

The legislation is silent on the specific role beyond to 'give a view'. The observation of earlier interviews was used to inform discussions from as the interviews progressed:

Q. Yes some people have told me about the value of a good independent person being an ambassador who could be sent to a difficult Parish Council to get them to listen to something I want to work on is some training on Independent Persons get a template as to what their competencies and capabilities – there is a lacuna – what does an Independent Person do – pretty much what you say locally ?

A. Yes pretty much one of the most unsatisfactory parts of the Act

<div style="text-align: right">IV06, p. 86</div>

A. It's interesting we discussed that in the interviews with the independent persons when they came – it is the biggest area subject to abuse – we were quite clear that the role is not to act as a secondary investigator – they are there to say – has the Council fulfilled its statutory obligations – have we followed due process and dealt with things appropriately so to that extent though you might think there is some conflict of interest – I think in the majority of cases there would not be – but that was another reason for having two independent persons and it could be in a particular circumstance the independent person is

known to the individual councillor and there might an issue there too. So there is a good reason to have more than one.

<div align="right">IV09, p.142</div>

Q. I found an interesting arrangement at Council H where the Councils all share/ pool their independent persons a good way of doing things

A. I did suggest that to PLP but everybody and my Councillors included felt they wanted to actually recruit them and know they were a good fit with the organisation and I don't mean that in a Machiavellian way to influence them – but sometimes the attitude with an individual like with an employee and you want to think they are on the same wavelength as you and a number of people we interviewed came over as very pro-public and anti councillor which is not a good thing in any event and we did not appoint them – the people we wanted took a very measured approach understood the pressures the Councillors were under but equally important that the public are seen to have an avenue to complain about the people who represent them.

<div align="right">IV09, p.142</div>

IV04 observed that there had to be work to ensure the Independent Person was working effectively and identified it as a success factor he said that he would look for:

> ...Evidence that people have been appointed as Independent Persons are capable and the role is capable of being delivered – because it does have some inherent tensions in it

<div align="right">IV04, p.58</div>

Taking account of IV04's observations, I established a training session for Independent Persons of Council N and decided to invite the Independent Persons for councils A and M too. A full training session was carried out. I made a note at the time in the *field notes* which was backed by notes made by a colleague officer:

Field Notes – Independent Persons

During the qualitative data collection I had noted the difference in terms of numbers of independent persons. Some authorities e.g. Council C has three persons and Council H shared them. In 2013 Council M suffered the loss of an Independent Person through illness. It took approximately 4 months to recruit another person. As a learning point I took a report to Councils M & N recommending that three be appointed and sough that their service period be increased to May 2016.

A further action to be taken from the objectives was to set up a training session. I arranged to meet with Independent persons from Council A, Council M and Council N. Notes were taken by a colleague. 8 Independent attended the meeting. I produced a complete briefing document. I included in the briefing pack the only statement made on their role by a minister (Bob Neil). I extract notes of the meeting (commencing with the Ministerial observation on the role):

> *[PF read out the following]*
>
> *… would particularly draw your attention to the role of the new independent person. This is in no way similar to the role of the independent chairman and independent members on the former standards committees. That former role was principally to be involved in the determination of allegations about misconduct of members. In contrast the role of the new independent person is wholly advisory, providing advice to the council on any allegation it is considering, and to a member facing an allegation who has sought the views of that person*
>
> ***Council A's Independent Person*** *- 'This is a completely new approach. You might define "respect" but your definition might be different to someone else's – you then come to an impasse'.*
>
> ***PF –*** *'if you do not decide to investigate a matter, you do not have to take the view of the IP. A lot of local authorities have the IP's view on everything – this is what happens at Council M. At Council N if there is a decision not to investigation, then we do not get the IP involved.'*
>
> ***PF*** *– 'question to you all – have you been asked by any members to give a view?'*
>
> ***All*** *– 'no'.*

Source Field Notes and Notes of Meeting 23 January 2014

<u>Critical Success Factor finding 7 – The value of establishing performance measures</u>

In his interview IV04 when asked about CSF's for promoting and maintenance of standards, he set out a number of performance indicators:

A. We have covered those really – our tests will be evidence that:

- The section 27 duty has been taken seriously – demonstrable evidence – not loads of paper – that it's biting into the culture
- Evidence that people have been appointed as Independent persons are capable and the role is capable of being delivered – because it does have some inherent tensions in it
- The acid test around the new arrangements are then evidence of public confidence
- Things are dealt with in a timely and proportionate way – it is not turned into a back door way of re- introducing the old system

IV04, p.59

These indicators were discussed with IV05-10. There was no disagreement. IV05 (pp.77-78) said that he considered that it was important to work with the external auditor and keep them informed of all standards issues. He added that he agreed about not, 'getting too bureaucratic' IV06 said agreed very strongly.

6.6   Analysis of Interview responses to Objective three questions   - To build on this research to promote the Section 27 (1) Localism Act duty - what steps should we take?

Introduction

The third objective gave the participants the opportunity to give their views on the legal duty on their authorities to maintain and promote high standards of conduct. As the questioning was semi-structured this objective was partially covered in the responses to earlier questions and taking action with the Critical Success Factors so identified formed part of Objective three. The predominant view was that they would like more national guidance on the arrangement process and that it could lead to unfairness.

Next step finding 1 The need to carry out a review of current arrangements

The research shows an area of concern as to whether decisions made on conduct complaints are sound. The Localism Act promotes arrangements made by authorities that work for a sense of finality rather than fairness. A quote from IV03 illustrates this concern:

> A. I was pleased there was no right of appeal because it does end it – they can go for judicial review and the ombudsman – so there are those sort of things – but if I was the leader of the Council and no and I'm a member and someone says you bullied an officer or that you participated in planning when you should not have done so we are going to issue you with an admonishment – I'd go - this is outrageous, I want to appeal and you say I can't – even that is enough so though you say if there was a more draconian sanction they would demand a right of appeal – in a way an honourable upstanding councillor to be found that they have breached the code is a very bad thing – and I should have a right of appeal
>
> IV03, p. 95

While there is no legal duty to have a right of appeal it does seem unfair that there should not at least be an appeal against sanction.

<u>Next steps finding 2 – The need for more guidance</u>

The Secretary of State released little guidance on the operation of standards since 2012 except on 20 September 2013 when new guidance was circulated on the requirement that it was now a responsibility for elected members to declare if they held membership of trade unions. That requirement is questionable because the only mandatory declarations relate to 'Disclosable Pecuniary Interests' under section 30(3) of the Localism Act 2011. Being a member of a trade union is not one of them. This creates a paradox in that as the interest is not a mandatory interest it must be a local matter to determine as to whether it ought to be declared, yet the Government has issued guidance. This approach can be contrasted with the CSPL which continues to publish reports containing guidance such as their 14th Report. The dichotomy can be presented as localism as defined by government prevents them from giving guidance as that would undermine the *localness* of the decision making. Interviewees observed:

Q. Should we have some national guidelines?
A. Yes from a personal point a view national guidelines give some authority to decisions made by the Monitoring Officer and the Independent Person – otherwise there is feeling that this is just the Monitoring Officer being difficult

IV01, p.13

A. No that flies in the face of localism...

IV02, p.27

A. Ideally picking up things we all think are important drafting it in a style as I have described and we all play the same rules – and I fundamentally think that should happen – who is going to promote that with that authority? In terms of that I am a person who is wedded to the principle of you do need standards – I don't think you can rely on a few legal prosecutions - I think you need a standards code and it needs to be – of course we will carry on with our codes and do it regionally which is I think better than nothing – but I'd like to see it and if there are other standard things around the code for promoting what we need to do it more by all means lets have one national body to do it

IV03, p.44

A. Well I think so – having the regulatory bodies that we had and the destination we had arrived at was the right one that is the old Standards Board where it had left off as a

strategic body and a centre for thinking good practice having obviously a last gasp prevention role – I think that was the right model – and you made the point at the beginning of [IV04's] comment about being an unregulated sector – I agree there are always issues around regulation – people will find it restrictive and petty undoubtedly those things will surface but at the end of the day I think we all tend to work better to standards that are monitored or scrutinised – so my feeling on balance is we are better off with organisations such as the Audit Commission and Standards Board

<div align="right">IV06, p.90</div>

A. Yes- think that was the real plus points. We don't need to recreate the Standards for England whether it's the CSPL – but in some way – I still refer back to what was there before an investigation, and you can see what the view was and so having that information there is very useful. Any profession does the same thing

<div align="right">IV07, p.111</div>

A. With anything particularly its good to have some reference materials support to give you ideas how it could be done – how can you have guidelines though when you don't have a standard uniform code – could be difficult but we could do with guidelines on DPI's I know we have had some on what is and what is not a DPI – I think it would help particularly struggling in how you would promote – high standards of conduct – who should set it ...well I don't think it's just Monitoring Officers that's the point the Government was making – cos something about members perception in all this and they are the ones at the coalface and we may think we know what it is like to be a member – but we don't just like they don't know what is like to be an officer so query a committee between LGA and Lawyers in Local Government – dare I say it you don't have to be a lawyer to be a Monitoring Officer – but I don't think it should come from government or Monitoring Officers or LGA – there has to be a broader discussion but take into account the different types of authorities and different types of members – for example our members or our leading members are more or less full time whereas I get the impression that in certain districts it's more of a evening

<div align="right">IV08, p.130</div>

IV09 commented:

A. That's quite difficult isn't it in terms of localism - one does not fit all any more yes we can have '*Eric guidance*[61]' and we all follow it - it's all common sense – but yes there is not an

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[61] He is referring to Eric Pickles the Secretary of State

over-arching setting out guidelines so yes there will be a lack of clarity and therefore there will be disparity and a lack of consistency and we could do something but you would have to benchmark with a similar authority which is (a) similar size and (b) same sort of mind set and culture so what you come out with at the end of the bench marking is something which makes sense – because otherwise it's a pointless exercise – but I think the only logical solution is to re-introduce what was lost from the old regime – to have a national code and body or have an appeals process even if it is a first tier tribunal so you start to get a clear message – you get the Local Government Ombudsman and the Information Commissioner I don't really care -somebody needs to be responsible externally for ensuring that and there is a output at the end of it – to produce case law – until then it's going to be quite hard as people say we've got all this case law from the old regime but that no longer exists so how do we know that they are on point and applicable?

<div align="right">IV09, p.155</div>

A. The difficulty I see is when you have so many different codes, yes there can be some general national guide lines and I'm sure Monitoring Officers would find that very helpful as I said one of the things that was useful from the Standards Board was they used to bring out those information leaflets - they were very useful with different practical scenarios of course we have lost all that. One of the advantages of PLP is you have got that network and hopefully through the new LGG. The difficulty is with so many different codes how are you going to be able do that – you have got general if all local authorities have done is adopted the seven Nolan principles – then it would be easy to give national guidelines because they are so woolly but obviously you have got local authorities that have adopted a more prescriptive code then that's going to make it more difficult – I think the PLP code is something between the two. If we were using a code like the previous code then we can think about the guidance we were getting previously by what is meant by some of the behaviour so yes it would helpful – but I don't see how it would work unless they change.

<div align="right">IV10, p.174</div>

How could this be achieved? It is essentially a national policy objective so it needs advocates for change. This is a matter which is beyond the scope and resources of this research, though the findings will be highlighted with organisations better placed to take the matter forward. To that end this was followed up with a further meeting made with the CSPL to discuss the findings which is featured later in this chapter.

<u>Next steps finding 3 There is a need to promote within authorities clear responsibility for leadership on standards</u>

As Objective one's findings illustrates, the location for the leadership for standards was not uniform within the sample group authorities. There were a variety of different approaches from seeing it as a collective responsibility of the leader and chief officers and all the council to a specific committee or in several cases no obvious leadership at all. The analysis suggests it is time for a discussion on the need for leadership in terms of standards. As can be seen in the replies to questions on leadership there is much that could be done to promote leadership on standards. The CSPL emerges as a vital component indeed the only national body that promotes standards. However as a single practitioner to do more is a significant challenge, nevertheless the findings can be taken forward within the practitioner's own practice and with colleagues with professional interest group meetings for example. It can form part of the next cycle and be raised at a Governance Special Interest Group.

<u>Next steps finding 4 - Defining a role for the profession and practitioners</u>

The new responsibilities for local authorities regarding health and care may provide an opportunity to raise the issue of standards and culture. This has been picked up in the interviews:

> **Q. I think there will be a renaissance here not directly from local government – from health – I think the Health and Well-being Boards in particular need to bring in local accountability to public health – we have taken over public health earlier on this year – it's not good enough for a load of councillors to nod through a spreadsheet and say it looks very good - carry on – what I want to see is them carrying on their meetings at hospitals and primary health care centres and going out talking to service users - not same old business same old faces same old story – an opportunity to learn from Mid Staffs and get some public activism back – in an area that members can understand everyone is a user of health services – maybe not schools if they don't have children or public housing if they don't live there but everyone is a health user and it's a chance to bring localism into health care - a matter they have responsibility for but has not been as accountable as it could be. What do you think about that?**

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A. I think health will bring about a lot of changes – in some way health has some strong governance credentials stronger than local government in some cases and weaker in others – my point is we are most effective when we are participating in management at a senior management level rather than in some role as a Monitoring Officer both because our grasping of the role which I think we have to do – but once identified as the policeman the person who is going to perhaps look as advising from a narrow perspective and then called in as needed and lose our place at the top table and if we had stayed at the top table in a different guise when we were town clerked like the finance officer – I appreciate it varies and at some places the Monitoring Officer is on the top table and the Monitoring Officer is missing from too many top tables. My experience says it is much to do with the Monitoring Officer role as participants - it is a question as to how we re-establish ourselves as valuable in our own right as senior managers to allow some of that participation to discharge good governance which is ingrained – don't get me wrong I'm not saying we should not be doing lots of work to have good models it's just I see an inherent conflict

<div align="right">IV06, p. 91</div>

Next steps finding 5 - What can be done about the feeling that sanctions are inadequate?

The question of sanctions appears to be a major cause for concern. It was a controversial issue as to whether current sanctions were an effective deterrent or simply a punishment. It appears to have always been the Government's intention to have lesser sanctions. Part of the reason for this can be located in the Secretary of State's guidance of 28 June 2012, where the transitional measure of removing appeal rights for pre localism cases in the pipeline was justified because the sanctions were going to be reduced. It said,

> *the most a standards committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training*

The CSPL argued in the 14th report that sanctions were insufficient when raised under objective 3 questioning, the responses were near unanimous:

Q 10 should there be greater sanctions?

A. I would be in favour of more severe sanctions. I actually think publication of the outcome and the sanction should come as a matter of course – slight reservation only if the member has not breached the code...

Q. What do you want to see?

A. I have difficulty with suspension as that is a very public downgrading of their effectiveness as a representative – I think though removing them from the decision making process like the committees they sit on does not damage the democratic process – for me again members should be engaged with their constituents and what is happening out there in the locality rather than sitting on committees so – what would you do about the councillor who votes twice? For me that was in terms of democracy, it was the most heinous thing you can do when your decision making relies on confidence in the voting process and someone who leans across and presses a button on a vacant machine to vote twice.... The vote came up on the screen - what happened was the member who had been sitting there – he had left and left his authentication card in the machine.

A. There's a bit in-between that is not imposing a sanction which stops him carrying out the primary function and– maybe my example was exceptional because I was amazed by it - representing the constituents – maybe somewhere else you can go with something like that. Re the criminal sanction, the members coming round to realise that the Director of Public Prosecutions will not be likely to take action, it was a deterrent at the beginning but now they have sort of worked it out.

Q. What do you think of Eric Pickles's argument there is always the ballot box?

A. I think voters have very short memories that's all I can say – I think it would have to be in a newspaper not tucked away on the website perhaps such as issuing a press release but twelve months on is anyone going to remember it unless their opponents bring it up?.

IV01, p.15

A. If you had asked me this question this time last year I would have said definitely yes – now I'm not so sure – I've actually noticed no reduction in complaints at all in fact since 1 July 2012. I've received more complaints than in every other year bar and that year was inflated by seven complaints being made by one individual about one planning meeting. I narrowed that down to one complaint which was what it was in reality – if you look at the 1 July to end of year more complaints than ever before..

IV02, p.27

A. I think in theory you do need - because the prosecutions are effectively not a sanction. They are rarely used and won't apply to all breaches. There are occasions where, not here in other places, when there can be quite serious things that members will do and there are not any teeth there to deal with it

IV03, p.44

Yes – I think it links with the whole if you have sanctions you have to have a tighter system I think you have to have a more challenge proof process

Q. A right of appeal?
A. Yes and a right of appeal human rights stuff
A. My view is that most members are keen to do the right thing. Those sanctions in the past did not make an awful lot of difference – I think the other thing we need to work through is the criminal sanction for not disclosing a disposable pecuniary interest properly - I have just had a case now where literally a police officer interviewed a parish councillor for not disclosing an interest because I'm working with the chief inspector – what are you going to do about this? – when I first spoke to him he said Localism Act what? What are you talking about? – I know some Monitoring Officers have got actual protocols with the police - we have not yet. As part of my role for neighbourhood services I'm responsible for dealing with anti-social behaviour and community safety – raised that with him and talked to the Chief Constable about it obviously as it is a level 5 offence[62] rather down there in their books and asked - look it is serious from our point of view, can you have a look at it? Don't spend lots of resources on it but it's not very good for me as a Monitoring Officer to say it's a police matter and they say not be bothered with that. At least take it seriously – not suggesting telling them how to do their job but at least for the public are seen and they did interview this guy

IV05, p.73

A. I think there ought to be as I said earlier if there is a national scandal, if the worse that can happen to Councillor X is an admonishment then yes there is a need for greater sanctions

IV07, p.111

A. I think there should - I know it would be difficult in terms – and the intention this is to have a lighter touch and the government does not think that other than breaches of the Disclosable Pecuniary Interests are important but the public would like there to be something more and particularly regarding the parishes – if we recommend something if the parish council does not like the outcome what do we then do - it is bringing the Council into disrepute isn't it?

IV09, p.155

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[62] Section 34 Localism Act 2011 and can disqualify for up to 5 years.

A. If we were dealing with the complaint we dealt with in ███████ where we suspended for 6 weeks on one occasion then again six months- just to give a reprimand was in no way sufficient – yet we know the Police investigated but they were not interested as insufficient evidence and we would have been left high and dry – yet there was clear evidence as the standards committee found that he was in collusion with developers – he was getting planning permissions for them. He was a strong personality chairman of the planning committee again we were talking about if the leadership is corrupt – then what hope have members at a lower level? – it just does not work – so I think we need to go back to the sort of sanctions we had previously but where it is minor to knock heads together or to have conversations with Members so that you can deal with those tit for tat complaints without having to go through a full investigation process and the powers to be able to enforce those

IV10, p. 176

6.7 Overall analysis and implications of Objective one qualitative data

The sample evidence supports the interpretation that the Localism Act achieved the government's objective in enabling a reduction in petty and vexatious complaints. However there is no evidence of any effect in terms of delivering improvement of attitudes and behaviours regarding the duty on authorities to promote and maintain high standards of conduct of members.   This data was considered by me in terms of Schon's (1987) *reflection on action*.

My Field Notes recorded:

> **19 January 2014**
>
> *For a number of weeks have been writing up the analysis of the notes when I asked myself – what would you tell people was the first finding of the qualitative research? It then occurred to me; how little things had really changed and, that was due to culture. This is what had been staring me in the face from the Francis work and how Localism really means that standards would be subject to local culture. I then came independently across a comment from Peter Drucker: 'culture eats strategy for breakfast'*
>
> Researcher's Field Notes

This released a finding which I describe as being the key thesis Objective one finding from the qualitative research that is:

***Key Finding** – Localism Act's duty of local authorities to maintain and promote high standards is frustrated by local culture*

Thus the finding from the interviews session is that the Localism Act in practice has appeared not to have brought any change in terms of improvement in standards and if anything has weakened the ability to deal with complaints with any degree of consistency, because localism preserves the pre-existing culture within the local authority organisations which are subject to the section 27 duty.

On 24 January 2014 I raised this finding with the *PLP Governance* meeting the minutes recorded:

Paul Feild presented his work on improving practices/complaints post Localism Act 2011. Concerns that the workload on MOs involving parishes is only going to increase, many of the complaints involve parish councillors. Paul made the point (referring to the Berwick report into the NHS) that it is the culture that needs to change. Discussion took place as to how the culture could be encouraged to change and how PLP could influence this:

- *Member induction post 2015/2016*
- *Training/workshops for Parishes*
- *Educating those proposing to stand as Councillors in their new role if they are elected in particular transparency in relation to interests (include something in Candidates Packs)*
- *Planning and licensing protocols (probity in planning but what about licensing)*
- *Emphasise criminal sanctions (see DCLG guidance) – recognising difficulty in the lack of police engagement*
- *Visibility of Monitoring Officers or other governance officers at parish council meetings (experience in authorities of this having a positive dampening effect on parish councillors who would be tempted to misbehave)*

<div align="right">

PLP Governance Special Interest Group

24 January 2014

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Objective one's finding impacts on Objective two's findings in terms of Critical Success Factors for maintaining and promoting high standards. This is because the promotion and maintenance of standards will also be subject to the local culture.

The Committee for Standards in Public Life expressed concerns about culture in its 10th report. Their key concern was that the centralisation of complaints established under the Local Government Act 2000 undermined the ability of standards committees to set standards locally:

Culture - the centralised system has arguably removed primary responsibility for standards from individual authorities (and members). Local Standards Committees critical in our view to embedding high standards in each local authority are under-used and in danger of falling into disrepair

The standards committees set up under the Local Government Act 2000 thus went through a period of ineffectiveness by being subject to the centralised national scheme. Following the CSPL 10th report, the government in 2007 legislated to require that the committees took a greater role in the handling of complaints but with independent chairs. When principal councils became under a duty to promote and maintain standards by the Localism Act the preferred vehicle for doing so for local authorities appeared to be in the data sample their existing standards committees (if they decided to keep them) or their successors, but the Localism Act also required the independent chairs were to be dismissed and so such committees would henceforth be chaired by elected members. The consequences were that a process at local level which was identified as weakening suffered further upheaval. Furthermore in its weakened state it was then given further responsibility for standards leadership while whatever the existing culture was at local level was able to continue unmoderated by a consistent approach or the input of an independent chair outside the political structure.

The findings within objective one also raise the paradox of the Localism Act, in that by not have a national code it has lead to a proliferation of different code at parish, district and county level. A councillor if a parish councillor, district and county councillor could be subject to three different codes and parishes in the same district can have different codes. Furthermore councillors in the same county council could have different district and parish codes. With there being hundreds of parish councils within the county councils that formed part of the sample there was no accurate picture as to how many different codes actually existed,

PLP tried to establish a standard code, but as illustrated in the interviews and earlier chapters it was met with political criticism.

6.8   Overall analysis and implications of Objective two qualitative data

The overwhelming obstacle to success that emerged was the issue of tackling culture and leadership behaviour. Data from the *Objective two* questions and answers revealed the issue of culture was a major consideration in terms of the challenge of maintaining and promoting standards. The role of leadership in terms of setting an ideal and models of behaviour varied. It appeared to require the active participation of leaders of the councils. IV04 made the point that effective leadership on standards required a political leader to speak out; and that is clearly what the CSPL sought to achieve in redefining leadership. However as was seen from Objective one, *Objective two's* deeper probe for Critical Success Factors revealed there was a lack of clarity as to what leadership meant. It was clear from responses that such action for standards was not uniform within the sample of 9 authorities.

The picture that emerged was that the section 27(1) duty and the section 28(1) (g) obligation for leadership were equally subject to prevailing culture. While multiple Critical Success Factors were identified and would be likely to have an impact on reduction of complaints and improvements of standards, that was not the same as a promotion of standards by design which would lead to the specific measurements of success identified by IV04 and in particular that it was *'biting into culture'.* It became clear that the aspect of an indifference to standards culture had to be addressed by a promotion of a culture that values standards.

In the Berwick Report (2013), the lead author stresses that poor culture must be tackled, yet as the interview notes show there was a spectrum of different cultural attitudes. This re-enforced the suggested measures proposed by IV04 and the need to make action plans to direct organisations to adopt high standards as values. I made a note in my field notes on this point:

> *This is quite profound as it has implications for my research - I think it is spot on. My reflection - if Berwick is right (as I think he is) this principle ought to be as relevant for the public sector and the behaviour of public officials in local government. Furthermore as local government took over the Public Health function from the NHS as from April 2013 then attitudes shaped by national and local culture will dominate the standards. Furthermore if as in localism you remove the national standards - then what goes on*

locally become inevitably different from the national norm. The recent behaviour by a councillor in ▮ *Council and his observations about gypsies is fascinating. The local paper records the* ▮ *Council's chief executive took the step of visiting the site of the controversy - a courageous step*

<div align="right">Field Notes 18 August 2013</div>

The comments about attitudes particularly from IV04 (IV04, p.42) about standards being *kept in the cupboard and brought out when needed*, means that for some organisations the practice of promotion of high standards which is after all a legal duty under section 27 cannot be carried out effectively. The need to establish a regular pattern of meetings was supported in my area of practice. I set out an example from my research practice in the panel below.

Practice Example – Regular meetings of a standards committee - gifts and hospitality.
I set out in the table below actual meetings and cancelations.

Table 6.3

Date of N Council Standards Committee	Status
2014 3:00 pm	Agenda, Draft Minutes
2014 3:00 pm	Agenda, Minutes
2013 5:00 pm	Agenda, Minutes
2013 5:00 pm	Agenda, Minutes
2013 3:00 pm	CANCELLED
2013 3:00 pm	Agenda, Minutes
2012 3:00 pm	CANCELLED
2012 3:00 pm	CANCELLED
2012 3:00 pm	Agenda, Minutes
2012 2:00 pm	Agenda, Minutes
2012 4:00 pm	CANCELLED
2012 4:30 pm	Agenda, Minutes
2012 3:00 pm	CANCELLED

Following taking the lead on drafting items for the Standards Committee for N Council in late 2012, I sought to establish at least one item of business and in a form that it might create debate. The table reveals that there were 4 cancellations of scheduled meetings of the Committee in 2012. It was noticed during research that as the September 2012 meeting had been cancelled, the annual report of declaration of gifts and hospitality as required by the Council's written Constitution had not occurred, which ought to have been considered at that meeting. It appeared to have been overlooked. As a result a catch-up report covering the period from September 2011 to November 2013 was presented in January 2014. The Standards Committee Members were keen to examine the drafting of the Council Constitution regarding the duty on Members to declare gifts and hospitality and on close examination word for word it was found to be ambiguous and unclear in terms of what must be done with gifts. This is a key part of governance as public confidence requires that declarations of gifts and hospitality must be declared. The Committee requested that it be re-drafted

and presented to the next meeting in April 2014. This was duly carried out and the Council Constitution was amended.

The research points to a need for regular meetings of some form of a committee with the object of promoting standards. However the research indicated there was no clear mechanism for establishing a routine of such meetings. IV01 reported that Council H had merged the standards committee with a finance focused audit committee, and that Council A did not have a standards committee at all. Taking account of the fact that Council A had the highest member on member complaints of all the authorities surveyed, it would appear that Council A's decision is not leading to an improvement in the managing of complaints and may not be compliant with the Localism Act S.27 duty. That is not to say that S.27 obliges any authority to have a standards committee, just that the absence of a committee responsibility for promotion of standards may lead to greater dysfunctionality.   Council B retained a standard committee with parish members but only met when there was business he commented 'until I had a code of conduct coming in I did not anticipate we would have any meetings this year' (IV01, p10). He added at Council B 'there is no training and no promotion [of standards]' (IV01, p.11).

Council C utilised a standards and audit committee. Council D retained a standards committee (IV03, p.29). Council F retains a standards committee and IV05 provides training to them utilising a national law firm[63]. Council G retained a joint standards committee with the Fire Authority (IV06). Council J took the opportunity to stream-line and deleted its sub-committee.

While there was general agreement about the need for training and it was a critical success factor, IV08 raised a key point,

> I don't think training does it actually – Training is a start so you can tell people what the nuts and bolts are in black and white – it's about a culture and a way of working and you are not going to get that by from a somebody spouting out at you
>
> (IV08, p.126)

The picture is that members are not required to have training other than a briefing on the Code of Conduct which is part of an induction to being a councillor but it is not legally

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[63] Eversheds

required. The lack of any requirement for training raises the question as to how are the authorities actually complying with the S.27 duty?

During the time of analysis of this area of the qualitative data, the London School of Economics (LSE) published on its Democratic Audit site (Doig, 2014) a paper highly critical of the CSPL and how well it had achieved its stated objectives that is: *'promoting standards through codes, and through guidance and education but also an element of independent scrutiny and monitoring as "an important safeguard in maintaining public confidence"'.* Doig asked what was the value of the CSPL when in his words,

> Of course the Committee had had an opportunity to get to grips with any local government agenda in 2009 but dumped it in favour of the far more topical and sexier subject of MPs' expenses. The fact it has been retrospectively objecting – describing the abolition of the Board as 'stripping back of the current structure to virtually nothing' and the abolition of both bodies as 'the biggest regulatory gap in relation to local government', while expressing significant concerns about the 'inherent robustness of the new arrangements' – is somewhat diluted by the absence of local government from the Committee's recently-announced 2014-2015 work plan.
>
> Doig 2014

However, the Localism Act while obliging authorities to promote standards did not provide any mechanism for guidance nor any direction beyond the Nolan principles for education and furthermore, there is no independent scrutiny or monitoring as both the Standards Board for England has been abolished along with the Audit Commission. Lord Bew responded to the LSE web entry (Bew, 2014a) observing the CSPL had expressed concerns about the Localism Bill and the need for a mandatory code of conduct and effective independent persons and how the Government had rejected both proposals.

In terms of ensuring consistent outcomes, the very fragmentation of localism means that different authorities will have different rules in terms of code of conduct. While some authorities amended their previous codes no clear regional code had been adopted though the interviews revealed a broad preference for a code for England. As an example IV02 worked on the PLP Code but ultimately Council C decided to use its own version. IV03 commented that there are 'different codes all over the place' (IV03, p.31). Furthermore IV05 pointed out that local authority charitable trusts will have members on

them as trustees. These trusts can be very complicated businesses and the risks that membership carries are not considered at all.

However there were techniques for improving practice at the local level such as joint training of Monitoring Officers and independent persons. For Monitoring Officers within PLP this is being achieved within the sample by the establishment of a *Special Interest Group for Governance* (SIG). The SIG has worked with the researcher and members of the SIG have formed the majority of interviewees. Training materials are circulated and there is an opportunity to network.

While steps can be identified for officers, the 'we' aspect of the research question needs to address members too. Reviewing the evidence, I am drawn to IV03's Council D's approach of making it a formal governance step within the council constitution to require committees to be composed solely of trained members, replicated in the researchers Authority Council N. It offers a straightforward solution to cover the lacuna of no legal requirement for mandatory training for members. Furthermore the use of one to one sessions would ensure that systematically all members would be reached, it would avoid any feeling of awkwardness if there was a failure to understand and identify what specific needs in particular new members required to be addressed.

The use of one to one sessions by the Monitoring Officer to discuss the code of conduct, the training requirements and seek a commitment is identified from the research to be a critical success factor in establishing a commitment to the promotion and maintenance of standards. It is recommended to be put into the next cycle.

6.9   Overall analysis and implications of Objective three qualitative data

Review of current arrangements

The Interviews do reveal a number of clear areas of concern that emerged when participants were asked to comment on the current arrangements and process in the light of the last 18 months. The research shows one area of specific concern is whether the decisions made on conduct complaints are fair. The arrangements made by local

authorities work for a sense of finality rather than fairness. While there is no legal duty to have a right of appeal it does seem unfair that there is not an appeal against sanction.

<u>The call for more national guidance</u>

This expectation on current evidence is highly unlikely as it would appear to be contradictory to the spirit of localism. So as the evidence from the interviewees was that they wanted it, how could more guidance be achieved? As the government won't do it, then it would need to be a national policy objective for practitioners which will need advocates for change. This is a matter which is beyond the scope and resources of this research, though the findings will be highlighted with organisations better placed to take the matter forward. This was followed up with a further meeting with a member of the CSPL to discuss findings.

<u>Leadership</u>

As *Objective one's* findings illustrate, leadership for standards was not uniform with a variety of different approaches from seeing it as a collective responsibility of the leader and chief officers and all the council to a specific committee or in several cases no obvious leadership at all. The analysis suggests a discussion on the need for leadership in terms of standards. As can be seen in the replies to questions on leadership there is much that could be done to promote leadership on standards. The revised Nolan Principles now require the element of challenge of poor standards. This may be the most difficult element of leadership because as the CSPL observes 'Public office-holders sometimes need to show courage in speaking up about difficult issues, speaking "truth to power" and making or sticking by difficult decisions' (CSPL, 2013 p.23). One should not underestimate how demanding this is. As an example there is the difficult issue of what is to be done if it is the leader of the council who is breaching the code. Here I evidence a Field Notes entry;

Field Notes Entry 26 May 2014

While writing up the issue about culture and my reflection of 24 April I followed up this reflection with the recent example of Lord Hanningfield the former county council leader. He was charged in February 2010 and was convicted of making false claims to the House of Lords and sentenced to prison. He stepped down from being leader of the council and in due course because of his length of sentence he was disqualified under the local Government Act 1972.

On the removal of Hanningfield, in 2010 the new leader immediately commenced, established and chaired a 'Corporate Governance Steering Board to oversee the introduction of improved governance processes and procedures'. The membership of the Board would be made up of the leader, deputy leader, leader of the opposition and in addition the chief executive, the director for finance and the Monitoring Officer.

My reflection on this incident is that it was the new leader who took leadership with the ethical side, and ultimately it is the elected leaders who set the climate of behaviour.

As the making of appointment of members of a council's cabinet is a council leader's role and members receive a significant allowance for cabinet roles, challenging a leader may carry a heavy cost. This is even more so for chief executives or Monitoring Officers who may never find such employment again; furthermore these offices while filled may be by interim appointments rather than permanent career officials and so their tenure is at best transitory. The last word on officer leadership I leave to Secretary of State Eric Pickles on the recent failings of governance at Tower Hamlets Council (PricewaterhouseCoopers, 2014):

Mr Pickles: The council's core governance arrangements have centred on the three statutory officers: the Head of Paid Service, the Chief Financial Officer, and the Monitoring Officer. The council has failed to make permanent appointments to those key positions. Currently, all three posts are held by interim appointments. PwC concludes that the governance arrangements do not appear capable of preventing or responding to the succession of failures by the mayoral administration. Executive power is unchecked and executive power has been misused.

Hansard, 4 November 2014 Column 663

and

Mr Pickles: The conflation is made worse by the fact that the head of paid services is an interim appointment. An interim appointee does not have the same authority as someone who has their feet well and truly under the table, which is why, should we decide to use commissioners, it would be a priority to get a person in place who cannot be removed without their permission. The hon. Gentleman will have heard that, should I decide to act, we are setting up a framework whereby things come into being if the principal officer's advice is ignored. That is where things are important.

<div align="right">Hansard, 4 November 2014 Column 675</div>

<u>Sanctions and the right of appeal</u>

There was a consistent call for greater sanctions. As observed actions in one borough maybe a breach and not in another, IV02 had observed (IV02, p.27) that he would have said definitely yes for more sanctions but now he was not so sure whether sanctions act as a deterrent. But the whole point of the Localism Act is to promote high standards not to have a deterrent against bad behaviour.

The view was that the current sanctions were ineffective. However the reason for the perceived weakness of sanctions appears to be located in the deliberate omission of a right of appeal. A concern that has emerged is how fair are the complaints processes? The Human Rights Act 1998 incorporates the European Convention on Human Rights into English Law. The key issue is the wording of Article 6(1) of the European Convention which provides:

> …In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice…

<div align="right">Human Rights Act 1998 Schedule 1- The Articles</div>

Clive Sheldon QC in his 20 January 2012 *Advice to Association of Council Secretaries and Solicitors,* considered the effect of the European Convention of Human Rights Article 6 that is:

…(iii) Possible Sanctions

24. Against this background, I will consider the various sanctions proposals suggested in my instructions: are they available to a local authority and whether any of them would engage Article 6 of the European Convention on Human Rights ('the Convention') so as to require an independent appeals process if they were implemented.

27. In Pierre-Bloch, the European Court of Human Rights held at §50 that the 'right to stand for election to the National Assembly and to keep his seat [was] . . . a political one and not a 'civil' one within the meaning of Article 6(1) so that disputes relating to the arrangements for the exercise of it—such as ones concerning candidates' obligation to limit their election expenditure—lie outside the scope of that provision.' The fact that there was an 'economic aspect of the proceedings in issue does not, however, make them 'civil' ones within the meaning of Article 6(1)': at §51.

43. If the 'civil rights' aspects of Article 6 had to be complied with, however, then it seems to me that it would not be possible for this to be done within the local authority committee structure, as there would not be sufficient independence or impartiality; and the supervisory jurisdiction of the Administrative Court by way of judicial review is unlikely to remedy the lack of impartiality at the first stage: the role of the Administrative Court will be to review, rather than to re-hear the case against the councillor.

44. It would be necessary; it seems to me, for the local authority to establish some form of independent appeal. It could be that this could be done by means of utilising the services of an 'independent' person; albeit not the same 'independent' person who has been involved in the particular decision that led to the sanction…

In summary it appeared from the collective opinion of the interviewees that they considered that the sanction regime was inadequate and there was a need for stronger sanctions. However if there were stronger sanctions then there would be a stronger perhaps irresistible case for greater formalism including rights of appeal to a national body and that would be contrary to localism.

Right of Appeal

The statutory right of Appeal was removed with the Localism Act even to matters that occurred prior to the Localism Act. The Minister in a circular dated December 2010 explained:

> ...Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date.
> The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England). Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training...

In summary if the level of sanctions was raised then the case for a right of appeal would become stronger, and a need for a degree of independence.

6.10   Practice - Participant feedback on findings

As a step to strengthen the validity of the research findings by getting expert feedback, I discussed in further semi-structured interviews my findings. I met with the member of CSPL (IV04) in July 2014. The initial findings were set out in a supporting paper which contained the summary of the analysis of the three objectives. I followed up the next day with a meeting with the 2014 Chair of PLP (IV11) to go over the findings and then presented the findings to the PLP Special Interest Group for Governance on 18 July 2014. Following their observations a further re-evaluation of the literature was carried out.

Interviews		
Interviewee	**IV04**	**IV11**
Date	*3 July 2014*	*4 July 2014*
Digital File	C 03	C 04
Time	43.15	11.08

Table 6.4

Feedback Meeting with member of CSPL

The meeting with IV04 was nearly a year after the first interview with him. It took place again at the Cabinet Office and was recorded and transcribed. A copy of the notes was sent for comment. In the time since the first interview the CSPL had appointed Lord Bew as chair and published a report on a proposed code of ethics for the College of Policing (November 2013) and a report on ethical standards for providers of public services (June 2014). The interview commenced with a discussion of the first objectives finding, that the Localism Act's ability to influence standards was subject to local culture. IV04 commented:

> three things strike me from subsequent work that and stuff we have done,
> First of all I think culture does not depend upon external legislation, the recent reports we
> have brought out I think have shown you can't legislate culture just by rules and as I was
> telling the College of Policing last week we are doing work with them about the new code of
> ethics for policing that the existence of a new code by itself does not bring about the
> embedding that comes from leadership and internal. I think while something has been lost
> particularly in terms of sanctions and the external focus when you are looking at complaints
> about leaders and so on there is still a big gap I think in the leadership of standards both at
> local and national level – I think the Local Government Association (LGA) does recognise
> that the new legislative framework has transferred the risk to them it is a point we were able
> to discuss with them recently – it was, one of the criticisms you bring out, one of the
> criticisms of the first standards legislation the 2000 Act is that it did infantilise the system so
> everybody could stand back and say oh well it's up to the Standards Board now, then it
> was made more local and I think too much dependence was placed on the standards
> committee and the Monitoring Officer without the corresponding leadership support from
> the political system - the LGA does recognise that risk has transferred to them and it is a
> risk to the brand if there are a series of out breaks of high profile failures in standards and

so on that is a point you are coming to later, they do I gather closely monitor the annual survey of public confidence in councillors which does remain high and I think has actually increased as our own work regularly throws up. Councillors stand very much higher in the trust index than ministers and MPs we repeatedly have said and repeatedly think that local government is now one of the least regulated sectors. It was more regulated than Parliament, it is now less regulated and the quid pro quo – and I see it very much as quid pro quo - is that if they are being given the discretion under localism – which is a good thing the committee support localism, and people taking responsibility for their own destiny at a local level - the quid pro quo for that is they give the leadership and re-enforcement and for that the jury is out on that - whether that is happening sufficiently well everywhere.

<div align="right">IV04, p186</div>

The interview went on to consider the issue of culture in greater detail:

Q. I'll move onto second question of cultural attitude and climate – I use the word climate because I think its not just the culture - the climate there are a number of papers Edgar Schein's espoused values and values in practice what I do, people do pick up what is the right culture, but it is what they do is the climate and that is the tricky part – and picking up with Lawton[64] he is picking up with bringing structured teaching of ethics in public sector as a taught practice – what's your view on that?

A. Well I think it does need espousing, it does need constant re-enforcement – I mentioned we will in two weeks time be bringing out our next report on looking specifically at induction and we will be making that point where it goes to leadership and the point about reinforcement we have always said as about the police Elizabeth Firkin has said espoused behaviours are indivisible if you see people taking short cuts on some things expenses or jollies examples you gave you lose trust on the whole piste - it does have to be need to be maintained completely, we also need to have regular re-enforcement and we shall be quoting academic sources and we shall be quoting around that suggestion that it does need linkage with everyday behaviour for re-enforcement- not a high level one off: it needs constant re-enforcement... You will be able to see that, one of the things that struck me about the research was when we asked the question something along the lines like you have an ethical question who would you go to? – overwhelmingly it shows people would go to the officer by which we mean Monitoring Officer or the chief executive and it's someway down before you get to the leader and the whips. We did something round policing governance arrangements again you would go to the chief executive and the Monitoring Officer –and we are making a big thing there are letters on our web site to Police and

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[64] Alan Lawton

Crime Commissioners where we say to them unequivocally that they are responsible as the ethical leads for the local judicial and policing area the new code of policing that has just come out from the college of policing where we hold the policing commissioner especially in the frame for holding the Chief Constable to account then that is happening it is being embedded and reinforced they must keep their own house in order their own codes of conduct. So that is really making the point about leadership re-enforcement, we will be advocating case studies that grow out of real situations - as a good means of re-enforcing and re freshing the message also keeping up to date because new situations and new forms of delivery arise and that relates to the report we brought out about a month ago on the use of outside contractors and outside suppliers. We were finding ethics were in no-no land, not in the forefront of peoples mind in a systematic way being put into the contract – no one was saying have a low ethics contract, it's all part of your message not being separate and academic it needs to be built into the business kept up to date re-enforced and monitored which we said in the third party report as well that a senior person we said in civil service department or senior governance person in local government or someone like that is responsible for it – that goes back to the point of it not all resting on a standards committee or Monitoring Officer

<div align="right">IV08, p.188</div>

The interview moved to the second objective and the value of standards committees:

Q. Indeed – I think it's a good picture there were 26 public authorities I spoke to 9 senior people, heads of audit, Monitoring Officers at a senior level either head or deputy head and having a standards committee or as it were or standards and audit committee did create a beacon for practice once you lose that where are you going to have anyone valuing...
A. I can see the force of that – I would suggest to you though another way of interpreting that might be that the presence of a standards committee or an audit committee is indicative of a good standards culture rather than cause and effect and the absence of one might be an indicator of a poor culture

Q. that then supports the finding of the first objective that localism is subject to culture ...
A. Exactly so, exactly so – in the ideal world you would have localism, you'd have would have effective leadership a standards environment put in place how we things round here, are monitored and there might well be a standards – but that would be indicative of the virtuous circle. Equally one thinks back to Standards Board days- there were many highly dysfunctional authorities that had standards committees handling huge amounts of trivial cases and you could not say there was either effective process or good standards – and in

that respect I'm sympathetic to the Secretary of State saying you can create a very expensive lawyers' picnic and still not have good standards none of that should cut away the duty

and

A. You did not include in the critical success factors active adherence to the basic duty from the leadership of the leader and the chief executive and through the authority itself – I would have thought that comes first – I would not run with this order I would see

A. Oh sorry you do have it fourth point active promotion of leadership you have got to have it – that for me is the *sync qua anon* and with it as an adjunct to that goes the training and the definition of the independent person one to one sessions with the Monitoring Officer the existence of the standards committee and so on all of those are pretty redundant if they are tokenistic and the leader sends out the signals that he or she really is not bothered about this stuff at all.

Q. After I met with you I had to do briefing on Francis and following report [Berwick] the failings at Mid Staff were down to culture
A. Yes it was

Q. What in fact concerns me is the recent Health and Social Care Act 2012 passes public health functions to local authorities and bound under the National Health Service Act to follow the NHS Constitution – until I trained them on it they did not know what it was
A. Not surprising

Q. That flags up the big point which is missing - there ought to be some legal requirement to train members - no legal requirement whatsoever for members to be trained in anything
A. That's true in process terms but again if you were taking the statutory duty of promotion you have got to have a code – on the current secretary of state's requirements and the LGA recommendation both versions of codes incorporate the Nolan principles – so arguably the duty is there, the issue is the priority given to implement it

Q. I found where authorities have the standards committee then they tend to have the duty to maintain and promote delegated to them under the scheme of delegation but arguable that's not a good way to do it?
A. No

Q. Unless there is a business plan for the committee to be proactive then how is it actually promoting...

A. I'd draw the parallel with the recent report on standards of third party providers we are critical of those who say oh well we have outsourced it so it is not an issue – whereas no you have a statutory duty to provide services to old people domiciliary services or whatever it is – you should therefore be thinking actively how do you build standards into the contract and more importantly how will you be monitoring them – you don't escape the duty by outsourcing, the same was true of the G4S in the civil service thing.

Q. I think the G4S has led to a pausing of the full scale outsourcing of support services

A. But we are saying it can be, and often is, a good way of bringing in innovation and new ways of doing things – we are really saying the issue is the failure to address, and build in monitoring of standards, it is not a mechanical failing of contracting per se – I think the same applies of standards machinery and is part and parcel of the basic duty to have a good ethical environment and the absence of those things or the existence of patently useless independent people may well be a counter indicator of a poor culture

A. Just the other thing, you made me think about Francis one of the issues was the desensitising that had taken place that people could walk round wards where there was drinking of flowerpot water and those sort of things, one of the most important things about culture and standards is around challenging inappropriate behaviour, we were pleased to see that the professional standards agency has particularly set a duty for board members to challenge inappropriate behaviour and our new descriptor, current descriptor in Nolan for leadership very specifically addresses that point to challenge ...

<div align="right">IV08, p.188-9</div>

We discussed the third objective and the call for greater sanctions and the issue of leaders and leadership, and I passed to IV04 a copy of the public report on Lord Hanningfield:

Q. One of the things in it is the excel spreadsheet of his credit card expenses, he run up expenses of £278,000 – one of the things I did in looking at it as a case study of the leadership aspect[65], in the majority of his expenses he took officers and members along on the jaunt trips to foreign lands and lunches and what worries me about this, is up to 2011 albeit that this happened before the Localism Act, this is under the 2000 and 2007 regimes the local politicians and local officers seemed to be incapable of managing an errant leader which ties in nicely

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[65] The field notes on Hanningfield are in the appendix.

with the Committee's concern as to what do you do with leaders now that you don't have Adjudication Board as it were, to manage the more difficult end of the power pyramid ?

A. That's very interesting – I gather there is something in the Local Government Chronicle this week about Lord Hanningfield – I think they have received legal advice not to pursue the recovery you might want to look at that[66][67]

A. On leaders in general – there is evidence of the party machinery taking action against an errant leader, if you take the Leicestershire case high profile figure the David Parsons case eventually it took time but eventually the political system did remove him and he is now standing for another party. I think one needs to collect a number of cases over time and needs to balance whether the political discipline is sufficiently sure and even handed to maintain public confidence – it might be and if you take it in isolation his removal from office saves protracted court proceeding which could have been done while the issue of recovery is a separate issue, the Council took the view they made some recovery not the whole amount - with legal advice there is something just to be weighted in the balance and there is always the risk which we did pick up – where the party does not take action then public confidence is damaged and indeed if one looks more broadly across the Westminster scene that all three parties have a tendency to cover up and not take action in high profile cases and you will know the cases as well as I do – they don't show that it's an automatic *a priori* assumption that parties will act speedily and effectively

<div align="right">IV04, pp 186-7</div>

Q. Here he [Hanningfield] took officers out for meals over 315 times, so where's the challenge element?

A. Exactly – down to culture and leadership issues and there being a code, presumably there are rules in place on hospitality if on just one a exceptional say a conference, but on a systematic basis the basic rules on giving and accepting hospitality and external parties were not present, normally a requirement - then arguably you have the system being debased and other people looking at it shows it is one rule for x another rule for generality you and me.

A. You had a point with the sanctions thing – that's interesting it's something we are keeping under review – expressed by authorities there no sanctions at all – but you bring out the point if you do have sanctions both human rights and natural justice does require some statutory basis – it will be interesting to see over time how far the LGA takes it upon

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[66] Local Government Chronicle 1 July 2014 – 'County advised to drop expenses claim'
[67] Local Government Chronicle 20 August 2014 – 'Lords urged to act over Hanningfields peerage'

itself to act or intervene in authorities which are dysfunctional[68], there are ways of doing it outside of statute through collective action – where a task force or peer review – I don't think we have set our face against informal intervention – peer review party disciple – the question is whether they are systematically used to maintain public confidence

IV04, p 191

Q. The analysis suggests a discussion on the need for leadership in terms of standards. As can be seen in the replies to questions on leadership there is much that could be done to promote leadership on standards.

A. It's bang on what we are saying, it is a matter of local choice how you set up your local arrangement it is a recognised function to which value and weight is given – I probably told you the last time we met one of my regrets under the middle system was having a very eminent leader with a very good council who said they had an excellent independent chair with good people etc then spoil it all by saying we hope it never needs to be used, we have got it there in a place like ours it is never likely to be used – I think that's the danger in relying on process - the whole history is bedevilled by excess focus on process and machinery and not on the culture when we bring out the induction thing we will be emphasising leadership if the Monitoring Officer is pushing with the grain or doing something mechanical they're [the members] not turning up and there's no sanctions down the line from the group for not turning up to this stuff you are wasting time and money

IV04, p 192

and

A. Well right now it's on our standards matter risk register it is one of those areas of a new and untried system there is a risk to public confidence and so therefore we will be keeping a close eye on how well it has been embedded and what the implications are for public trust and confidence? We have not decided if we want to do a study as such and in what timescale – we might do that – but there are various ways of cracking the problem we don't have to do a full study and in the committees history it did a report that then gave rise to the then Secretary of State Hillary Armstrong implementing something way above what the committee had said and the Third and Tenth Reports – we are not rushing to go back over old ground ping pong we need a new system – we are recognising local government is a very important part of public life within our remit – it now embraces the wider outsourcing thing we have been looking at - and lobbying whichever way you come at it, it is an area we want to keep under review – and it is the least regulated sector at the moment which may not be a bad thing but I come back to the quid pro quo – local government enjoys

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[68] Note Secretary of State's intervention in Rotherham Metropolitan Council Casey (2015)

greater autonomy freed of tiresome statutory controls the quid pro quo is that it visibly demonstrates that it is taking the statutory duty seriously that it does monitor it has some monitoring with evidence and most importantly there is no suggestion of lapse of public confidence. If we saw any adverse trends in any of those indicators then I'm sure the then committee would want to look in detail. We have always said there is a big duty on the sector i.e. LGA – we said this in Standards Matter - individual leaders and LGA must lead on this issue, my sense is and this is me speaking now- not the committee my sense - is the that politics of the abolition of the code have somewhat clouded the issue in the last year or so and maybe after the election the LGA is of a different composition and after the election and possibly another Secretary of State, it would be time to take stock and ask the open question and it is an open question - how well has this current system bedded in? We are absolutely not at the point of saying done and dusted across the whole thread of Nolan work, to come back to one of your research findings those who say the CSPL has been around for twenty years done and dusted now- move on to the next thing, are absolutely missing the point because it needs constant reiteration, constant monitoring. The price of freedom is eternal vigilance and wherever we look at an area, as we will be doing on induction, third party providers we see patchy awareness, patchy implementation, patchy practice, patchy culture – which you know is grist to the mill to your thesis.

IV04, p191-2

Feedback meeting with Chair of PLP

This meeting took place the following day to the interview with IV04. The first finding on culture was discussed.

A. Ok, in my experience from two angles from the district council level I think particularly from my council the local culture has been to work between the political parties so that that particular objective – the promotion of standards has been maintained because we have had an arrangement whereby our politicians work together to ensure there are not any petty and vexatious inter party and political type of complaints so at that level I'm not so sure, in my experience but at the parish level the local culture does affect it – particularly where you have dysfunctional parishes. It really does cause a major issue especially where you get cliques and in my experience they are not political - basically people don't get on with each other to the detriment on the duty on the authority to promote and maintain high standards – yes I'd agree with that.

IV11, p.182

We then considered the Critical Success Factors:

Q– What I've listed here under three are the following Critical Success Factors I wonder if you would like to look down and see if there is anything you would want to add to that?
A. The first one the existence of a standards committee -my authority no longer has a standards committee – but it does have a 'governance committee' which has as part of its terms of reference the Localism Act requirement – so the standards committee per se is not there – obviously it is critical that the full council does buy into the process and I would agree with the bullet points you have got here – I would agree with that

Q. Any others consider worth adding?
A. The use of plain English in the arrangements – if your local authority arrangements which we are under a duty to publicise – are on the web site and they can be easily understood and the complainants understand what will happen as under the changes you need to manage the complainants expectations as to what will happen at the end of the process the complainant wants them horse whipped down the end of the high road and you say to them these are the sanctions and the potential outcomes and they understand that this is the likelihood of what will happen.
Q. That an interesting point others have made similar points so I'll put that in.

IV11, p.182

We then went on to discuss Objective three.

Q. I'll now move onto Objective three if we can. Just so you know I had the benefit of speaking to IV04 yesterday of the CSPL. He said having read what I had put, he could see difficulties in increasing the level of sanctions because there would an expectation of a right of appeal

A. Yes I think there would be an expectation of a right of appeal – however I think the lack of a credible sanction is starting to cause issues even amongst some members – what is the point of going through this process I mean particularly around members who are not whipped if you have truly independent members not subject to party discipline and you take them through a process then at the end of the day they can still be there causing mayhem and what are you going to do about it because the council can pass censure or whatever – I still think this is a weakness in the system but I do accept if you apply sanctions I know we had the bureaucracy of the old adjudication panel all of that sort of stuff but the lack of the ability to do something in inverted commas to a member who is behaving particularly at a

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parish level – because that's where the issue are – in the parishes. At the Monitoring Officers conference earlier this week there was ongoing issue Paul Hoey was mentioning dysfunctional parishes which are taking up more and more of his company's time to resolve.This not at district ,county or borough level – that's where the problem is and how you get into those parishes and break it up – I don't know

Q. Again all the evidence supports what you say the CSPL said more than 50% of their complaints were parish business and there is an argument they should not be subject to the code of conduct at all?
A. They have to be – In my view they must be subject to a code of conduct

Q. Can I pick up on leadership – found it was not uniform *Quote etc*
A. My view is I firmly think it should be a collective responsibility of the leader the chief executive and the leaders of all the political groups

Q. What do you do if the leader of the council is breaching the code?
A. Yeah, you don't have the safety net of sending it off to the Standards Board any more – if it was the leader – give example of my authority as Monitoring Officer – if I had a complaint about the leader of the council – I would not deal with it myself – I would send it to the governance committee and they would deal with it - however the governance committee is a politically balanced committee and then you get into the difficulties of a perceived political decision and we did not have that with the old statutory standards committee – you would take into account the suggestions of the independent persons, at the end of the day – it is going to be a political decision

IV11, p.183

6.11 Follow-up action after the feedback sessions

I considered that the key point that emerged from the feedback interviews was the need to get the political and employed leadership on board in the promotion of standards. While the presence of standards committees was a positive manifestation, the evidence supports the interpretation that the promotion and maintenance of high standards of members was vulnerable to the attitude of the leadership who would set the cultural climate.

Fortuitously, a few days after the interviews, in mid July 2014 the CSPL published their survey *Standards in Public Life - What Do Local Authorities Do?*(July, 2014b). I examined the findings as referred to the IV04 interview. I present extracts from the survey at Fig 6.1, 6.2 and 6.3 in my form of presentation. It can be seen that from the members surveyed the majority of members had faced ethical challenges but that 37% did not seek advice or guidance although as two did not answer the follow up question the figure is nearer 40%.

Answered 122 Skipped 17

- yes
- no
- don't know

Fig 6.2
CSPL   Q.11 'Have you recognised a situation as an ethical dilemma
 as part of your council role?'

Fig 6.3
CSPL Q. 12 'Did you seek Guidance on the ethical dilemma?'

Fig 6.4
CSPL Q. 13   'who do you regard as providing ethical leadership and maintaining
the ethical tone in your authority? - Please tick all the answers that apply '

These findings confirm the emerging picture that leadership on ethical conduct and standards is not just a critical success factor, it is at the apex, like a keystone which locks the whole Localism Act standards regime together, but the whole structure is built on the foundations of culture.

Following the meeting I re-visited the question to establish where the authorities who provided the qualitative data located their Localism Act section 27(1) responsibility.

I set the details out below in table 6.5 to show how the sample authorities located their section 27 duties within their Constitution.

Location of Section 27(1) Duty 'To promote and maintain high standards of conduct'		
Authority	**Comments**	**Constitution**
Council A	District	No provision
Council B	District	Joint Standards Committee
Council C	District	Standards Committee
Council D	Unitary	Standards Committee
E	Not Local Authority	~~~~~~~~~~~~
Council F	District	Standards Committee
Council G	County Council	Joint Standards Committee
Council H	County Council	Audit Committee
Council J	County Council	Standards Committee
Council K	City	Governance Committee
Council L	District	Review Committee
Council M	Unitary	Standards & Audit Committee
Council N	Unitary	Standards Committee
Council P	District	Joint Standards Committee
Council Q	District	Audit &Standards Committee
Council R	District	Governance Committee

Table 6.5 Where is the Localism Act S.27 (1) Duty?

Table 6.5 shows that the sample authorities, by a significant majority currently locate the responsibility for the Localism Section 27(1) duty with their standards/ audit / governance committee within their Constitutions. This arrangement would not appear to be the optimum location for the duty. It is contrary to the analysis of the qualitative data of this research which suggests that the effective promotion needs to be led by the officer triumvirate of the chief executive, chief finance officer and the Monitoring Officer with the political leader(s).This finding is supported by recent research by CSPL (2014), in the answers to CSPL Q.13 (Fig 6. 4). I have re -presented their results as a 'radar' chart as it illustrates how the leadership for ethics is balanced towards the employed officers. Indeed there is an argument it ought to be located within the responsibility of full Council and an Executive.

This provides further confirmation of the validity of the key finding that the effectiveness of implementation of Localism Act chapter seven standards requirement is being subject to local culture. Furthermore the Critical Success Factors as set out in table 6.6 are considered to be well-founded by expert practitioners.

Objective two - Critical Success Factors
Active promotion and leadership on a standards culture by elected members and chief officers
Importance of the existence of a Standards Committee appears to establish some order and process
A preference that there was consistency in dealing with complaints and same codes for all
Need for members training in standards, interests and best practice
Active management of cases
Plain English Code with clear rules and explanation for the citizen to understand in accordance with expectation of S.28(12)
Getting the role of Independent Persons defined
The use of one to one sessions by the Monitoring Officer to discuss the code of conduct, the training requirements
Specific outcomes in terms of key measures of performance (identified by the Chair of Committee for Standards in Public Life) of evidence that: o The section 27 duty has been taken seriously – demonstrable evidence – not loads of paper – that it's biting into the culture o Evidence that people have been appointed as Independent Persons are capable and the role is capable of being delivered – because it does have some inherent tensions in it o The acid test around the new arrangements are then; evidence of public confidence o Things are dealt with in a timely and proportionate way – it is not turned into a back door way of re- introducing the old system

Table 6.6 Findings CSF

6.12 Findings and recent literature

As the research was being analysed in spring of 2014, further literature was being published by the CSPL and academics, taking a retrospective view of the previous standards regime and standards committee and also taking an opportunity to look forward to the new localism regime. I now consider the research findings against the literature.

I commence with the published output of CSPL. To recap Lord Bew observed that, the lack of sanctions meant that success of the standards regime is entirely dependent on robust local leadership and ethical championing. It was 'a fragile balance' and those 'who are "good at this stuff" will continue to be' while others he said will 'resort to monolithic culture which have in the past had the most difficulty in dealing with issues internally' (Bew 2013, p.4).

Bew's view was that it was necessary to establish an open culture in which challenge of poor behaviour is encouraged. *Objective one's* finding of the weakness of the Localism Act is that the requirement to make improvements operates subject to the existing culture supports Bew's position. The research furthermore has an impact on Bew's concern (Bew 15 November 2013, p.4), that given leadership behaviours were established on either: external compliance based or integrity based i.e. internally driven, then by dismantling the national body of Standards for England and the Audit Commission, the external compliance means of control of behaviours has gone. This leaves the integrity based formula. This research finds that internal integrity will be subject to local organisational culture particularly of the elected members. The question is can an integrity based system suffice with the only effective sanction being the ballot box? This means that in a four year cycle electors may need to wait several years if the code is broken early on in the member's tenure. Will they have long memories? The evidence to support the view that the ballot box is sufficient was not forthcoming. There was a strong response from interviewees to the effect that the lack of sanctions remained a concern. The literature on culture (Hofstede et al, 1990) is that it is the organisation that establishes a culture whereas the Localism Act's attempt to impose a culture without sanction or reward and to qualify it by making it 'local' means that nothing will change.

The Lord Hanninfield case study[69] evidenced that a powerful political leader's behaviours are very difficult to challenge[70] and it took a new leader to establish a moral compass to give a sense of direction.

Parish councils continue to be a major problem for Monitoring Officers. Macaulay and Lawton (2006) observed that while they account for only 0.375% of all local government expenditure they were responsible for some 49% of complaints. The research interviews conducted in 2013 and July 2014 did not give any indication that the situation had improved. When it was suggested that perhaps they be released from the code requirement, the CSPL member observed that would be wrong which has been their position since their Third Report (CSLP 2005, p.57).

The issue of standards committees and their contribution to standards and governance has seen further comment in academic journals. It was observed (IV04) that the existence of a standards committee presence is indicative of a good culture in support of standards and their absence a potential signifier of a less ethically functioning organisation, but it does not mean that the standards committee necessarily improves standards per se. While this can be seen as a chicken and egg situation, one interpretation of this research is that standards/ audit / governance committees can be a positive force and as such support the promotion for standards.

I now consider the impact of the research upon the Lawton and Macaulay (2013) Committee case studies. I replicate the research findings and observations in the right column of the following table (6.7).

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[69] See Volume 2 p.214

[70] A recent example was the inability under the legislation to remove Shaun Wright from continuing to carry out the office of Commissioner for Police and Crime for South Yorkshire because of his earlier shortcomings as a Councillor responsible for Children's Services in Rotherham – Telegraph 19 October 2014.

Lawton and Macaulay Standards Committees Case Study		
Theme	**Developing Practice**	**Comments relating to thesis findings**
Engaging leadership	• The notable practice most clearly identified in this case, therefore, is the ongoing and sustained engagement of the leadership of the authority, focussing on the triumvirate of political leadership, officer leadership and independent leadership of the committee itself. • Political support is crucial for long-term development • Committee members need to be valued by the authority	The Section 27 duty location presents a challenge as to where should it be located now that standards committees are no longer mandatory. See IV04's comments on it being the primary CSF
Standards Committee Organisational Learning	• A good balance of members allows for a high profile internally and externally • Standards committees can profitably apply their expertise to a wide range of authority • issues in order to continually develop the committee's own learning • Knowledge and experiences travel well from committee to committee and should be shared	Now that the standard committee is not mandatory, learning will need to be at local level as member development involving the standards committee for guidance
Working with Parish Councils	• Need for a parish liaison officer • Face to face contact is extremely important for parish and town members • Personal relationships help develop trust • Flexibility and empathy are key virtues	Thesis confirms importance of face to face communication, however the challenge of engagement needs further research
Developing members	• If we don't do it who will • Sensitivity to the role of the Standards Committee within the wider authority • Commitment to training and development • Locating responsibility for self-development	Now that the standard committee is not mandatory, learning will need to be at local level as member development involving the standards committee for guidance
Community engagement	• Engagement with the wider community is an important part of the Standards Committee role • Standards Committees, in seeking to deliver a wider remit, will face challenging issues, and will have disagreements on how to deal with them. This is normal. • Ethics and standards are at the core of the authority, not a bolt on, and are part of the vision for the community as a whole.	No longer a requirement and thesis finds it is a loss and Lawton and Macaulay (2014) and Hickey (2013)
Recruitment and retention of Standards Committee Members	• Understand who you want to attract as an independent member • Use effective media – particularly situations vacant sections in local press • Ensure that candidates all have the fullest available information regarding the role	No longer have independent members but similar challenges to recruitment of Independent Persons
Training and Development of Members	• Joint training is an efficient way of covering crucial ground in a number of authorities • Joint provision can be very usefully extended to organisations other than neighbouring authorities • Working together can build trust and adds weight to what can often be viewed as an onerous task.	Now that the standard committee is not mandatory, learning will need to be at local level as member development involving the standards committee for guidance
Joint Standards and Audit	• A joint committee requires very careful planning roles and responsibilities need to be explicitly communicated to all members • Committee members should not be overloaded with audit information	For further research
High Pressure Investigations	• In conducting the investigation in such a high profile case, the integrity of the Standards Committee and the GLA is enhanced, demonstrating that its actions are 'without fear or favour'. • By appointing an 'internal' investigator the Standards Committee retained control over the process. • The cost of the investigation may be beyond the resources of the average District Council.	For further research

Table 6.7   Lawton and Macaulay Case Studies

The research identified that while the contribution of standards committees in promotion of standards is a CSF, it is not enough. It provides confirmation to Hickey's view (2013) that the removal of the mandatory requirement for a standards committee has lead to a voluntary and informal approach to ethics issues. Furthermore while Hickey argued that a breach in standards ought to be responded to in a timely way and as per IV04 that is a measure of success, there is no statutory requirement to have any mechanism to make it so.

6.13   Synthesis

In terms of contribution to knowledge the responses to *Objective one* have revealed that on the evidence presented in the region analysed, localism applied to standards and codes of conduct has failed to live up to expectations. Objective one contributed 12 findings that support the observation that the Localism Acts intention to promote and maintain standards is subject to local conditions and particularly the culture of the organisation and its leadership attitude to high standards of behaviour. I noted in my field notes the major speech of the Home Secretary Teresa May on 21 May 2014 where she told the assembled members of the Police Federation that they had to change their standards or the Government would do it for them[71][72].

The local government point has not reached that point but it illustrates the need for retaining public confidence and that it cannot be taken for granted. This means that the CSF's identified in objective two are of value as practical steps that practitioners can promote and use which will help to maintain and improve standards notwithstanding questions the research has raised regarding the effectiveness of the Localism Act.

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[71] 'I do not want to have to impose change on you, because I want you to show the public that you want to change. I want you to show them that you have the best interests of the police and of the public at heart. But make no mistake. If you do not make significant progress towards the implementation of the Normington reforms, if the Federation does not start to turn itself around, you must not be under the impression that the government will let things remain as they are. The Federation was created by an Act of Parliament and it can be reformed by an Act of Parliament. If you do not change of your own accord, we will impose change on you.' Home Office Press Release 21 May 2014.

[72] The Police cannot self-police…

In terms of answering the research question, as to what can I as a practitioner and my fellow practitioners do? This links in with objective three key challenge for practice is how to work with the current cultural structure given that the evidential findings so far support the view that the Localism Act standards regime is flawed and that the participants' preference would be to return to a national code with stronger sanctions and guidelines on how they should be applied.

6.14 Summary of findings

For ease I set out a summary of objective one, two and three findings

Objective one findings

Finding 1 – no evidence the Localism Act was having an impact
qualitative research session, which is that Localism in practice has an inherent contradiction that is a national requirement to improve standards, cannot be delivered if it is left to be achieved at the local level. This because of existing cultural attitudes will act as a barrier to change.

Finding 2 - Localism created a lack of consistency and complexity particularly involving parish councils

Finding 3 - who is making the complaints

Finding 4 -Lack of clarity over the requirement to maintain a Register of Interests

Finding 5 - practitioners have little guidance or support from central government following abolition of Standards Board

Finding 6 - complaints against elected members can be politically motivated

Finding 7 - No consistent guidance of what is a breach of the Code of Conduct

Finding 8 – lack of definition of the role of an independent person under the Localism Act

Finding 9 - Lack of clarity regarding leadership for standards

Finding 10 – Complaints from the public tend to relate to formal council business that directly affected them or are about behaviours at meetings

Finding 11 – there is a lack of a meaningful dialogue with national government regarding codes of conduct

Finding 12 - the whole localism standards process was rushed and created new workloads

Objective two CSF findings

Critical Success Factor Finding 1 – There must be active promotion and leadership on a standards culture by the political leader, elected members and chief officers
Critical Success Factor Finding 2 – Making use of a Committee with the objective of Maintaining and Promoting Standards
Critical Success Factor 3 - Establishing consistency in dealing with complaints and same codes for all

Critical Success Factor Finding 4 - Need for members training in standards, interests and best practice
Critical Success Factor Finding 5 - The value of active complaints management
Critical Success Factor Finding 6 - Defining the role of the Independent Person
Critical Success Factor finding 7 – The value of establishing performance measures

Objective three findings

Next step finding 1- The need to carry out a review of current arrangements
Next steps finding 2 – The need for more guidance
Next steps finding 3 - The need to promote within authorities clear responsibility for leadership on standards
Next steps finding 4 – Need to define a role for the profession and practitioners
Next steps finding 5 – The need to Address the feeling that sanctions are inadequate

6.15 Summary of chapter 6 learning points and reflections

The most important learning point was the value of establishing a dialogue with fellow practitioners and getting the benefit of their insight and experience. While the use of recordings greatly extended the time in terms of research collection and analysis. I remained of the view that it was an effective technique to be preferred over summarising the gist of what was said, with its risks of, the insider taking for granted (Coghlan & Brannick, 2010), and implied assumptions impacting on reflexivity and validity.

The use of recordings and repeated playback enable insights to be revealed that were not directly disclosed. In my field notes I noted:

> *It occurred to me two key insights were coming out from the interviews – proliferation and the interviewees rarely talked in terms of teams it was more about what they did alone – interesting.*

<div align="right">Researchers Field Notes 1 January 2014</div>

What I meant by that was the proliferation of considerations for the practitioner which could be overwhelming in terms of demands. It was curious that there was no mention of team working. In the Interviews both IV04 and IV05 mentioned it was a lonely business being a Monitoring Officer but to a degree it is a choice they have made because section 5(1)(b) of the Local Government and Housing Act provides that the authority that employs them must provide them with the resources to carry out their role.

The reason for the sense of being alone may be linked to the politics and the awkwardness of the arrangement. As the Localism Act requires the authority under section 28 to have a means to deal with complaints of breach of the code of conduct that work must be carried out by employees who are ultimately answerable to the elected councillors who appointed them to the role. It is as though a servant is investigating their own master. If the member is abusing power it is very difficult for the officer to not have in the back of their mind the consequences of investigating a complaint against for example, the leader of the council. The pre-Localism Act recognised this risk and gave a role for Standards for England to handle matters involving power. I noted in the interviews that the interviewees alluded to boundaries and one interviewee (IV09) chose

to leave because the culture was such that they could not stay. I reflected on this in my Field Notes and wrote:

Reflection

Made progress with the second and third objective. Thought about Bob Dick's suggestions about theory driven versus data driven and action research. The research is data driven and the key aspect which emerges is the sheer power of culture. Monitoring Officers leave certain councils rather than work in a difficult environment.

The data that culture is so powerful is an outcome that I had not anticipated would be so dominant but as the thesis research method is driven by data it cannot be discounted.

It occurred to me that the key issue is the localism paradox of culture being more powerful than the Localism S.27 obligation. It is as though there is a Wild West where different councils operate as though they were different jurisdictions but without any federal marshal or Supreme Court to establish any consistency.

Researcher's Field Notes 24 April 2014

Finally a matter occurred which further touched on IV04's observations on the role of the Independent Person. It involved notice of an Independent Person resigning. My thesis Field Notes Journal for 1 May 2014 records:

On 1 May 2014 I heard via e-mail from one of the Independent Persons who informed me that they were resigning forthwith as they were standing as party political candidate in the Council M local election... This matter concerned me as Council N is by a significant majority of a different political hue to the independent person's party that they have chosen to stand for. As this has created a vacancy - will need to ask greater probing questions to candidates.

Field Notes

The Independent Person had done nothing that was incorrect, but it raises the dilemma of the politics of the Independent Person and how would members feel about their matter being considered by an active politician of another party. There should be some guidance from the Secretary of State on this issue.

Chapter 7. Conclusions

7.1   Outline

This chapter summarises the findings and addresses the contribution to knowledge with regard to practice, literature and research methodology. It considers the implications and the practice application of the research in terms of improving practice. Finally it considers the learning points for the researcher as a reflective practitioner in terms of how has the research improved practice for the researcher as a professional in the field of democratic public sector corporate governance.

7.2   Summary of the research's key conclusions

The thesis adopted the approach of action research with mixed methods. It combined two specific elements of action research being: *insider action research* and *participative action research*. The research was located around the practitioner's own practice and working with a regional partnership of public sector professionals. All of us as practicioners were charged with the responsibility of administering and applying the Localism Act's duty on local authorities to maintain and improve standards of conduct of members of local authorities. The research evidence was collected through the practitioner's own practice by means of: field notes both diary and reflective; a quantitative longitudinal data survey on complaints stretching from pre-localism times to the implementation of the Localism Act. This was followed by a series of semi-structured interviews of practitioners supported by performance statistics of each of the interviewees' organisations. The findings were then tested in summer 2014 by further feedback sessions of semi-structured interviews with key experts. These provided robust qualitative and quantitative data which enabled an assessment of the implementation of a controversial piece of legislation. The thesis established through identification of best practice, the Critical Success Factors those practitioner actions that would assist in maintaining and promoting the raising of standards of conduct of elected members.

Scrutiny of the quantitative data within the researcher's own authority revealed a number of key themes, firstly, that citizens had a different expectation as to what the elected members would do for them, secondly, that it appeared the majority of the complaints lacked evidence to support the complaint itself and finally, that the major cause of complaints related to disappointment with ward councillor and surgery work.

To address this issue I proposed and implemented a set of *complaints management rules* mirroring the best practice of the courts in actively managing complaints so as to ensure that there is a thorough and timely process to deal with complaints. A copy of the rules can be found in the appendix to this thesis.

Within the larger quantitative survey conducted in 2013, the complaints were predominately from citizens, but there was also a significant number of complaints originating from members against members. The use of PAR contributed to greater insight to the quantitative data. As an example, when in May 2013, I presented the initial findings to the practitioners' Governance Special Interest Group, the feedback from the group was that there may be complaints that never actually appeared on the final statistics but may have required an investment in time. Furthermore very serious matters may never ever appear in statistics at all as the authority's record keeping requires a formal complaint to be made. The nature and scale of hidden quasi-complaints[73], was beyond the scope of this research, but I consider is worthy of further enquiry.

The colleague practitioners were concerned with the volume of complaints relating to parish councils which continued to be problematic. Discussions with IV04 (see Chapter 6) confirmed standards issues at parish councils were a trend going back to the days of the Standards Board.

The actual action research cycle in practice closely followed the plan set out in Fig 4.2. It proved to be a workable approach for the inquiry into improving practice and finding out about how well the Localism Act standards chapter seven was working. I found the research methodology's underpinning with participatory action research values and its injunction, that such research should operate so as to involve the people in developing practical knowing in the pursuit of worth-while human purposes (Reason & Bradbury

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[73] I mean by that complaints which are never formalised by the process but are resolved informally.

2006, p.1) facilitated effective working with fellow professionals. Indeed to carry out such an enquiry indifferent to a commitment to a set of values beyond orthodox research ethics would sit uncomfortably with the professional duty under the Localism Act to promote high standards. The challenge of this approach though, is the time required to carry out the work for a sole researcher. While it is yet to be tested, this research practice may be effective if adopted by a team of like minded professionals with a division of labour rather than one individual doing as it were, all the academic heavy lifting. I was struck by the research similarities in terms of cross professional working that could be found in a recent paper published in September 2014 Action Research (Voigt et al 2014). Furthermore this method's longitudinal quality enabled feeding into the research new literature as the research progressed. Wond and Macaulay (2011) commend this approach because of its allowance for, 'flexibility and nuance a deeper appreciation of context, as well as providing a holistic view of success' (Wond & Macaulay 2011, p. 310). The method adopted of getting feedback through the democratic process aided honing down to the key issues. This was particularly helpful during the interviews as was my modifying the questions to take account of what previous interviewees said and discussion of those aspects with the interviewees that followed, thus establishing a form of organic growth to the sessions.

So I found the research methods functioned well for the inquiry. However a number of factors that were perhaps unique to this enquiry helped: firstly, the research was directly related to my practice and my line management of my local authority was supportive; secondly, the existence of the PLP organisation was close to hand to work with. The Chairs of PLP afforded me a great deal of their time to clarify and focus the research objectives and the opportunity to meet and work with senior practitioners across the region. I felt it was important to keep PLP informed as to progress and its structures of Management Boards and special interest groups facilitated this.

This points to a key learning point and contribution to knowledge, that is the action research approach is effective as a means of working with professionals who are members of a regional professional body. Thus a research plan that took account of factors such as finding a practitioners' group with a degree of organisational maturity and structure in terms of organised meetings on a regular basis would be an ideal subject for participatory action research. Such research as acquired should be shared as soon as

possible with the group so that they can take best advantage of it in applying it to practice.

7.3   The findings of the research objectives

The research set itself three objectives, that is firstly _Objective one_ - understanding the localism changes in the promoting of standards – where are we now? Secondly _Objective two_ – which set out to discover the Critical Success Factors for the promotion of standards and finally _Objective three_ – which asked if we are to promote the _Section 27 (1) Localism Act_ duty what steps should we take?- This objective was associated with the CSF's and sought to understand how to build on the research so as to establish the learning points and identify the actions to take to move into the second action research cycle.

7.3.1   Objective one's findings

These were as follows:

Finding 1 – no evidence the Localism Act was having an impact.
Qualitative research session, which is that Localism in practice has an inherent contradiction; that is a national requirement to improve standards cannot be delivered if it is left to be achieved at the local level. This, because of existing cultural attitudes, will act as a barrier to change.
Finding 2 - Localism created a lack of consistency and complexity particularly involving parish councils
Finding 3 - who is making the complaints
Finding 4 - lack of clarity over the requirement to maintain a Register of Interests
Finding 5 - practitioners have little guidance or support from central government following abolition of Standards Board
Finding 6 - complaints against elected members can be politically motivated
Finding 7 - no consistent guidance of what is a breach of the Code of Conduct
Finding 8 – lack of definition of the role of an independent person under the Localism Act
Finding 9 - lack of clarity regarding leadership for standards

Finding 10 – complaints from the public tend to relate to formal council business that directly affected them or are about behaviours at meetings

Finding 11 – there is a lack of a meaningful dialogue with national government regarding codes of conduct

Finding 12 - the whole localism standards process was rushed and created new workloads

The objective sought to understand the localism changes in the promoting of standards and asked – where are we now? The central finding of the first objective qualitative element of this research is that the Localism Act 2011 contained inherent contradictions in seeking to bring around a national improvement of standards of councillor conduct at a local level within a political localism as defined by the Coalition government. The research found that while the national legislation had dismantled the previous standards regime, the evidence was that it had not managed to fully establish a fully functioning replacement at a local level because its progress in implementation encountered existing resistant local cultures. Cultural opposition to change, according to interview accounts in the research, appeared to be more powerful than the Localism Act standards legislative requirements to make changes.

The findings within objective one identified a paradox of the Localism Act, in that far from creating a more relaxed local arrangement by not have a national code it has lead to a proliferation of different codes at parish, district and county level. With there being hundreds of parish councils within each of the county councils that formed part of the sample there was no accurate picture as to how many different codes actually existed or how they differed in terms of definition as to what conduct was covered.

Within the case study sample of PLP, they had tried to establish a standard code to seek to establish some consistency, but as illustrated in the interviews and earlier chapters it was met with Parliamentary political criticism. Understandably practitioners would be wary of trying to carry out similar initiatives in the future.

Objective one's finding from the interviews established that the Localism Act had created a multiplicity of local codes all attempting to do the same thing and greater levels of complexity. The rushed introduction had created significant workloads and there were

examples of retaining the old codes and procedures. Notwithstanding the Secretary of State's wish to get away from *tit for tat* with member versus member and political point scoring, it was still common. Interviews reported that that member behaviour at public meetings was still a cause for complaints by the public.

The research found that lack of ministerial dialogue was complained of in terms of listening to how well the localism regime was faring and there was no guidance from the Government or steer on what a register of interests should look like. Part of the cause was the localism insistence for doing things at local level and the abolition of Standards for England left a vacuum on best practice guidance.

This lack of guidance meant that there were no defined constants to refer to as to what constituted a breach. The same problem was experienced as to clarifying the role of the Independent Person.

The absence of guidance as to how to establish leadership for standards and identification of steps to be taken to resist the power of poor local culture meant that there was little positive change reported. There was no consistent leadership model to emerge in terms of setting an ideal and models of behaviour varied. It was clear that it would need the active participation of council leaders. One interviewee (IV04) stressed that a political leader must speak out promoting standards; as reflected in the redefined Nolan principle of leadership.

In terms of contribution to knowledge the responses to *Objective one,* have revealed that on the evidence presented in the region analysed, localism as applied to standards and codes of conduct has failed to live up to expectations. The evidence supports the observation that the Localism Act's intention to promote and maintain standards is subject to local conditions and particularly the culture of the organisation and its leadership attitude to high standards of behaviour.

7.3.2   Objective two's findings

The second research objective sought to find Critical Success Factors for the promotion of standards so as to make a contribution to practice by identifying what works in terms of dealing with complaints and maintaining and promoting high standards, with practitioners themselves contributing towards improving practice.

The interviews provided support for a number of identifiable CSFs, that is:

- Active promotion and leadership on a standards culture by elected members and chief officers
- Importance of the existence of a form of standards committee so as to establish some order and process
- A preference that there was consistency in dealing with complaints and same codes for all
- Need for members' training in standards, interests and best practice
- Active management of cases
- A Plain English code of conduct with clear rules and explanation for the citizen to understand in accordance with the expectation of S.28(12) of the Localism Act that it be published and accessible for local people of the authority's area
- Getting clarity around the role of Independent Persons
- The use of one to one sessions by the Monitoring Officer to discuss the code of conduct and training requirements with members
- Specific outcomes in terms of key measures of performance (identified by the Chair of Committee for Standards in Public Life) evidence based that:

  o Demonstrable evidence that the section 27 duty has been taken seriously – not loads of paper – that it is biting into the culture
  o Evidence that people who have been appointed as Independent Persons are capable and that the role is capable of being delivered – because it does have some inherent tensions in it[74]
  o The acid test around the new arrangements being: evidence of public confidence that things are dealt with in a timely and proportionate way – and it is not turned into a back door way of re-introducing the old system

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[74] Even more so as now to be involved in dismissal proceedings of statutory chief officers from May 2015

Reporting these findings to the PLP Group led to some further suggested improvements being:

- Member induction post 2015/2016
- Training / workshops for parish councils
- Educating those proposing to stand as councillors about the expectation of transparency in relation to interests (this could be included in prospective candidates' packs)
- Planning and licensing protocols
- Reminding members about the potential criminal sanctions– and developing police engagement
- Visibility of Monitoring Officers or other governance officers at parish council meetings so as to have a positive dampening effect on parish councillors who may be tempted to misbehave

A key point that emerged in the investigative search for Critical Success Factors was that it was revealed there was no consistent agreement within the sample group's authorities as to what leadership on standards entailed. The research picture appears to be that the section 27(1) duty and the section 28(1) (g) obligation for leadership are equally subject to prevailing culture.

While multiple Critical Success Factors were identified and their use would be likely to have an impact on reduction of complaints and improvements of standards, that was not the same as a promotion of standards by design which would lead to the specific measurements of success identified by IV04 and in particular that it was *'biting into culture'.* Evidence was that an indifference to standards culture had to be addressed by a promotion of a paradigm culture that values standards.

The research found within the sample there was general agreement about the need for training and it emerged as a Critical Success Factor. In spite of training's value, a stumbling block is that there is no legal requirement for members to have any training. In practice they are all likely to have a briefing on the Code of Conduct which is part of an induction to being a councillor but it is not legally required.

The qualitative evidence collected indicated that there were practitioner misgivings about the removal of sanctions, the right of appeal and the now optional use of a standards committee as a standing committee. The research found that the possession of a standards committee contributed to promoting and maintaining standards; indeed as table 6.5 demonstrated it was the choice of the majority of the sample authorities to locate the Localism Act section 27(1) duty function with the non statutory standards / audit and governance committees.

Nevertheless while the evidence from the interviewees pointed to a tendency to retain standards committees previously set up under the Local Government Act 2000. the consequences were that, as all external governance and consequences for transgression had been removed, the local level was weakened.

This thesis supports the interpretation of emergent literature on standards committees' usefulness (Hickey 2013) (Lawton and Macaulay 2014), that is to say, by removing the mandatory requirement for standards committees, those authorities which do not commit themselves to devote resources and time to promote ethics and standards as an ideal are less likely to retain the pre-Localism Act machinery to do so or develop mechanisms to carry forward the Localism Act's section 27(1) duty. This is because there is no external oversight to ensure compliance other than best value delivery investigations under the Local Government Act 1999 as amended.

This thesis further suggests that in removing the mandatory requirement of a standards committee, the Localism Act undermined the authority of a standards committee and made standards subject to the local authority's organisational culture. The evidence from this research is that by locating the Localism Act section 27(1) duty to promote standards within a non statutory committee it dilutes the effectiveness of having a code of conduct and it potentially weakens governance. The evidence from the interviewees' responses, recent research (CSPL, 2014) and literature repeatedly suggested that the section 27(1) duty would be best lead by the political and professional leadership of the local authorities rather than standards committees, but this is not reflected in local authority constitutions. How to change these arrangements is likely to be difficult because the 2010-15 Coalition government's localism ideology rejected central government leading in the form of guidance.

Furthermore the (figs 6.2-4) CSPL results support the thesis finding that leadership is a keystone Critical Success Factor. If a Chief Executive and a Monitoring Officer have weak relations with the political leader or the political leader is part of the problem then a Critical Success Factor is missing and standards are likely to suffer.

While the research was being written up, the reports of PWC (2014), Jay (2014) and Casey (2015) were published. They have been considered in the thesis. The recent reports were about failings by an elected mayor (LBTH) and of a cabinet (Rotherham BC). There were both failings in leadership and governance. There were also breaches of the Nolan Principles of Public Life. But the Localism Act does not provide any remedy in terms of a cure. As was seen with the *Lord Hanningfield* case study[75] reining in an errant leader is very difficult, and creates the challenge of how do you build an objective case regarding misconduct involving the leader unless it is done with external support and power to requisition documents? It is worth reminding ourselves that what prompted the Secretary of State to intervene was external fact and evidence gathering (the BBC and Professor Jay[76]), not evidence collected by the Councils themselves.

However the Localism Act currently possesses no measures to intervene on the grounds of poor standards or even breach of the Nolan Principles. Indeed the method of intervention introduced in 2014-5 by installing Commissioners under the Local Government Act 1999 as discussed in chapter 2, was based upon the concern that the Secretary of State may have, that the authority under the spotlight is failing to continuously improve in its duty to provide *best value*.

This research argues that the current localism arrangement appears post the changes wrought by the Local Audit and Accountability Act 2014 to be transforming into a hybrid of all three localism positions as identified in chapter 2, with an inherent contradiction of not having a mechanism to remove failing members because of poor standards but on the other hand where there is a collective failure being able to remove their power.

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[75] Appendix to this thesis
[76] Jay was invited in to carry out the review by the Independent Chair of the Rotherham Safeguarding Board not Rotherham Council (Jay 2014).

7.3.3   Objective three's findings

Objective three asked what steps should be taken to maintain and promote standards. The first point to be made is that the implementation of the CSFs indentified in objective two will be effected, leaving the findings identified in objective three. These were:

    1 - The need to carry out a review of current arrangements

    2 - The need for more guidance

    3 - The need to promote within authorities clear responsibility for leadership on standards

    4 – The need to define a role for the profession and practitioners

    5 - The need to address the feeling that sanctions are inadequate

These findings inform the next section.

7.4   Implications of the research

7.4.1   Limitations of the research

The research took a longitudinal view over ther period prior to the Localism Act coming into force and the early years post its introduction. The active data collection looked from 2010 to summer 2014. While the research was being finalised poor standards in local government came to the forefront with the conviction of Lord Hanningfield former Leader of Essex County Council, the PwC on LB Tower Hamlets (2014), the Creasy Report (2015) and the decision in the Election Court in Erland and others v Rahman and Williams [2015] which found the Leader of LB Tower Hamlets guilty of corrupt electoral practices. Poor behaviours led to the mass resignation of Rotherham Borough Council's cabinet, to be replaced by commissioners appointed by the Secretary of State, and in the case of Tower Hamlets a fresh local election over a year later for an executive Mayor. It could thus be argued the matters of concern and actions identified to be taken are as relevant to practitioners as they emerged during the period of active data collection.

7.4.2 Legislative Changes

The key implication of the research is that evidence supports the inference that chapter seven of the Localism Act is flawed. The research points to several key weaknesses, some of which can only be addressed with legislative changes and amendments and others through practitioner and organisation management.

<u>Greater powers for the suspension and removal of members where there is failing leadership</u>

The research confirms there is widespread concern held regarding misconduct of council leaders and lack of sanctions. The evidence of this research supports an argument that there needs to be a statutory ability of the Secretary of State to intervene where there is failing leadership on standards. As the *Hanningfield case* study shows and re-enforced by the Rotherham Borough Council (Casey 2015) and Tower Hamlets (PwC 2014) interventions, the authorities concerned were not capable on their own of remedying the failure of leadership. This sustained a culture of poor standards. Those organisations were no longer capable of healing themselves. They needed external intervention. While there was intervention, it was taken under the Local Government Act 1999 because of a failure to deliver 'best value'. But this form of intervention has nothing to deal with the flawed ethical leadership. Yet the failure to deliver was arguably at least equally due to lack of adherence to the Nolan Principles rather than just organisational efficiencies.

In addition, the Local Government Act 1999 intervention arrangements to date are heavily dependent on the use of expensive external expertise. It seems unfair that the council tax payers of a council have to bear the cost of the external consultants to carry out an investigation. Even if there is a finding of poor value or poor administration, there is no power to remove the member. There needs to be a process for dealing with errant members and particularly leaders, which includes the power of suspension and if need be disqualification. This must be located with the Secretary of State because the Localism Act seems incapable of changing poor leadership on standards culture at the local level.

Locating the section 27(1) responsibility

This responsibility needs to be set out in a functions and responsibilities regulation made under the Local Government Act 2000. The evidence from the research was that many authorities had simply placed the responsibility with their now non-statutory standards committee or its successor. Yet the evidence was that there needs to be leadership from the council leader and the chief officers together with full council. There is very little legislation directly affecting the council leader but it is not unknown to place special responsibility on an elected member; indeed the Children Act 2004 section 19 establishes a 'lead member for children's services'. It would seem right to place a similar responsibility on the council leader to be lead member for the promotion and maintenance of high standards of conduct.

Need for a national default code

The evidence is that in the sample there was such a proliferation of codes that there was no accurate picture as to what all the codes in existence were. Furthermore as many principal councils have elections in thirds, unless the codes are revised every time new members join, not all the members have really signed up to the local code. It would be better to have a statutory national code which councils could opt out of by a positive vote.

Need for Guidance and clarification of Independent Person role

There is little guidance on the Independent Person role other than the legislation and some Ministerial observations on a by-the-way basis. The legislation forbids a person who had served with the principal authority or parish council as a member or officer in the last five years, but nothing to stop them resigning and becoming an elected party politician. As the Secretary of State has now determined that Independent Persons will sit on panels to determine staffing matters the need for greater clarity for the role is pressing.

7.4.3 The implications and application of the findings to practice

In terms of contribution, implications and application of the findings these have been brought to the PLP board and practitioners together with the Critical Success Factors identified. A summary was presented (copy of which is to be found in the Appendix). The key issue is the propagation of the Critical Success Factors to practitioners so they may make use of the methods and practices found to deliver success in maintain and promoting standards. As an example, because the Localism Act has sought to establish a strand of ethical governance based on the Nolan Principles yet provides little incentive or deterrent, the governance practitioner needs to take great care in working with elected officials and getting them to promote such values when they are to be developed in a local context. Local politicians will not want to feel that employed officials are telling them how to behave.

Implications for Practitioners – Professional risk
The views from the interviewees and the general picture were that the lack of national guidance placed the practitioners charged with management of complaints in an invidious position. Interviewees consistently said that they would benefit from national guidance. This was not because they did not know what needed to be done, they were after all at the top of their professional practice to hold the role of Monitoring Officer, and it was because there was the ever-present risk of being seen to be acting politically against an elected local politician. One interviewee said the Monitoring Officer could be seen as being difficult and more than one commented of feeling alone.

Furthermore because there was no guidance they could be seen as carrying out the process because they chose to do so, rather than because their role required it. When the lack of an appeal against a decision that a member is in breach of a code is factored in, a Monitoring Officer can be perceived as the face of an unfair process.

Ultimately this could lead to them being the target of member dissatisfaction. While the three statutory offices of Monitoring Officer, Chief Finance Officer and Head of Paid Service are a form of triumvirate, in the pecking order the Head of Paid Service (normally the Chief Executive) will be significantly more senior than the Monitoring Officer as will

the Chief Finance Officer, who was rarely mentioned in the interviews. Furthermore the Chief Executive will be accountable to the Leader of the Council. It therefore follows that these two persons must work together to support the Monitoring Officer or he/she will face an uphill struggle and be the likely focus of members' ire.

Implications for Practice - training on Critical Success Factors

Action has been taken in that the Critical Success Factors' findings identified by objective two formed the basis of a training session for practitioners run via the PLP in February 2015. It gave an opportunity to get feed-back on the thesis work and a further period of reflective practice.

The session commenced with a review of the Localism Act so far and covered the key developments in terms of the CSPL survey's findings and recommendations for action. It was followed by consideration of Critical Success Factors as identified in the research and then went on to consider the interrelation between the Local Government 1999 Act's relationship with the Localism Act 2011.

Implications for Practice - the application of Critical Success Factors to Promotion and Maintenance of Standards

I set out the Critical Success Factors to maintain and promote standards in a table with suggested actions and potential obstacles.

Critical success factor	Actions	Possible obstacles	Comments
Active promotion and leadership on a standards culture by elected members and chief officers	Raised findings with Chief Officers management team by means of monthly bulletin	Impact on busy agendas leads to no immediate follow-up	August 2014 - Amended Constitution to include standards leadership responsibility for Chief Executive
Importance of the existence of a standards committee appears to establish some order and process	Establishment accepted	None at present – but it should not be leading on S.27(1) alone	Plan to meet with Chair of standards to discuss work programme for 2015-6
A preference that there was consistency in dealing with complaints and same codes for all	Establish case management rules	None at present agreed changes to constitution	Very successful in reducing vexatious and malicious complaints
Need for members' training in standards, interests and best practice	Programme of training	Ensuring that 100% attend	Take up lessons from CSPL on induction
Active management of cases	Establish case management rules	None at present agreed changes to constitution	Very successful in reducing vexatious and malicious complaints
Plain English Code with clear rules and explanation for the citizen to understand in accordance with expectation of S.28(12)	Constitution in process of redrafting	None identified	Introduced in late autumn 2014
Getting the role of Independent Persons defined	Agreement drafted	None identified	Carried out new recruitment raised criteria to prevent political activity
The use of one to one sessions by the Monitoring Officer to discuss the code of conduct, the training requirements	As part of a rolling cycle	Ensuring that 100% attend	Take up lessons from CSPL on induction and keep the matter in momentum
Specific outcomes in terms of key measures of performance (identified by the Chair of Committee for Standards in Public Life) of evidence that:			
o The section 27 duty has been taken seriously – demonstrable evidence – not loads of paper – that it's biting into the culture	Induction Re-charging Encouraging reflective practice Regular item at Chief Officer Management Team	Posts currently held on temporary basis	Will take a period of time with new Council it is early days
o Evidence that people who have been appointed as Independent Persons are capable and the role is capable of being delivered – because it does have some inherent tensions in it	An established system of re-enforcement through familiarisation – regular contact and training prior to formal meetings where they may need to play a role	Time in recruitment is protracted as must advertise and get full Council to agree appointment	New appointments for Council N to be confirmed in February 2015
o The acid test around the new arrangements are then; evidence of public confidence	Attitude surveys – press feedback	Use of Twitter / blogs	Drafted social media guidance
o Things are dealt with in a timely and proportionate way – it is not turned into a back door way of re-introducing the old system	Performance monitoring to Standards committee Consider target times	Ensure meetings are held and that there is a clear programme of business	No outstanding matters. All cases at Council M and N dealt with in less than six months

Table 7.1   *Objective two* CSF actions

7.5 The practitioner's final reflections

7.5.1 Introduction

This part considers the practitioner's reflections on the research and the extent to which the objectives were achieved.

7.5.2 The extent to which the objectives were achieved

This thesis detailed the first cycle of the action research. The intention is to build on the findings that emerged from asking the research question. This will be used to support further research as the subject matter continues to develop and as action research is a longitudinal methodology, over time more insights will be revealed.

The research did not suffer in the way of set-backs and broadly kept to within expected timescales. How much of the research progress was down to good fortune is difficult to say, it certainly helped that the subject was one that interested the practitioners group I worked with and being located in politics had a degree of controversy which is still to be resolved. However on reflection one factor may have been a mindfulness of the action research values of Cooperrider and the 'unconditional positive question' (Cooperrider & Whitney 1999). In the correspondence and meetings I took care to explain what action research was including using a power point presentation to explain action research and set out that the broad thrust of the research was to find out about before the Localism Act, how the new regime was working in practice, and what we as practitioners could learn from each other's practice and what could be done to maintain and promote standards.

In doing so, while it was necessary to find out what was not working well and the obstacles and set-backs, it then went on to find what would be the Critical Success Factors for the practitioner.

In my opinion, the lead finding that the organisational culture of individual local authorities was the biggest stumbling block to maintenance and improvement of standards was a significant insight. It had the greatest impact on my practice as over time it explained

various ethically laden events and why colleagues behaved as they did. It is of value to my and colleagues' practice because it enables the focus to be on understanding existing cultures and determining change strategies which can be tested. The original intention of the research was to ask about my and other professionals' practice with regard to the Localism Act and how to improve our practice in terms of promoting and maintaining standards. The issue of culture had been identified as a component of the core objective to get a picture of current practice and moved to centre place following commencement of the interviews. I was struck by the first interviewee (IV01) a very experienced practitioner, who observed that at one authority members were failing to observe rules of procedure. A colleague drew to my attention a recently published Local Government Association (LGA) Peer Review comment:

> We saw limited evidence that CLB [Corporate Leadership Board] were standing together collectively to challenge Member behaviours and they tended not to operate strategically but focus on operational issues. The CLB agenda we observed was operational not strategic, seemed to be a forum to receive updated information and was potentially too large a group to operate effectively with 11 officers at the meeting we observed. CLB need to stand together against poor Member behaviours and re-focus on the 'big issues' such as the transformation agenda, budget savings and demand management.
>
> LGA Peer Report letter to a District Council 13 February 2014

On refection, I considered this observation was unfair. Is it realistic for employees to 'stand together' to challenge 'poor Members behaviours'? Some Members in my experience[77] would see this as tantamount to mutiny. The Members would no doubt retort - we have the democratic mandate – you are accountable to us! The extract ties in the *first objective* with the *second objective* of identifying the Critical Success Factors to raising and promoting standards. The research supports the argument that to bring around change to promote and maintain standards it must be spearheaded by the political and employed leadership of the authority. But they will commence their task operating in the prevailing organisational culture and if that is a poor culture then for them to promote standards, they must change the culture too.

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[77] 25 years as a local government legal practitioner

This demonstrates the difficulty of culture. In the example the LGA Peer Review team expected the 'CLB' to take a lead but the officers apparently were not doing so. Were they going to start doing so following reading the report? It's doubtful[78].   This illustrates the flaw. If a poor culture has taken hold, it may be impossible for the current employed leadership team to fix it. As an example, in the Mid Staffordshire Hospital where Professor Berwick identified a failing culture, it took outside inspections and intervention to make the change. But in that case it was not employed management verses politicians as it is in local government. Ultimately the politicians have the power of periodic performance management reviews over chief officers and termination of their employment. Manzie and Hartley (2013, p.4) described the relationship as 'dancing on ice', though it occurred to me that a better metaphor would be 'treading on thin ice'. Indeed the follow-up report by Casey to Jay[79] (Casey 2015, p. 28) identifies Rotherham as being possessed by an 'unhealthy culture' and a culture of 'sexism and bullying across the organisation' Casey (2015, p. 30). Furthermore Casey (2015, p.74) observed:

> Overall, Inspectors have not been impressed with the calibre and grip of leading Members. We have reluctantly concluded that they cannot be left on their own to lead the Council out of its current responsibilities.

The research in identifying the effects on standards by the absence of a power of external intervention in the Localism Act for standards means ethical cultural change will be very difficult. The reason for removal of intervention appears to be located in the coalition government's definition of localism as it contains an ideological opposition to central government interference. This is fair enough, they are the government after all, but taking corrective action is not interference, it is an act of rescue for the organisation and a protection of the citizens' interests which are hardly well-served by a bad administration and as the Rotherham BC case sadly demonstrates, bad cultures are hugely damaging. The shortcomings of this lack of power has meant that intervention has to be made by more convoluted methods as witnessed in the case of Tower Hamlets[80] and Rotherham by the stated reason being to ensure *best value* as required

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[78] Furthermore that Peer Review report was taken to full council in April 2014. It listed a number of action points. It has not returned for a follow-up a year later.
[79] Casey was appointed under section 10 Local Government Act 1999 by the Secretary of State on 10 September 2014 following Jay's report to carry out an inspection for best value of Rotherham for governance, children and young people and taxi and private hire licensing.
[80] In the case of Tower Hamlets London Borough Council, the Secretary of State announced in Parliament (Hansard 4 November 2014 column 664) that he was minded to send in three Commissioners under the

by the Local Government Act 1999. In summary currently there can be intervention for failure to deliver best value but no intervention for poor ethical standards unless it affects best value.

The research in raising awareness of the flaw establishes a firm starting point for practitioners to be aware of the challenge of promoting and maintaining high standards where there is a poor organisational culture. The second objective in identifying Critical Success Factors and the keystone of leadership enables the practitioners to have strategies and tactics which practitioners have found to be effective.

Furthermore, by the joint participative enquiry there was a much greater source for data to be mined to find out what the Critical Success Factors would be to achieving an improvement in standards. The research objectives in finding out about how the Localism Act works in practice is of course not complete because the Act has only been in effect for three years and new evidence and academic comment is only now starting to emerge. It is proving to be a rich source of data and with a new majority government this research may assist in informing the review that is likely to follow the early years of Localism.

Regarding the challenges that insider research can present in terms of organisational politics the subject matter (Coghlan & Brannick 2010) and the form of enquiry, I did manage to avoid these pitfalls an insider can face. On reflection I think there were several reasons for this. Firstly, because the "I" and "we" had something in common. The "we" (practitioners) were faced with a significant mandatory change of the Localism Act's new standards regime and we all had a need to engage with it and make it work. Secondly, as my role in the organisation was to take action, actioning it was positively welcomed. Thirdly, it was my good fortune to be introduced to PLP at the very time I was formulating the research proposal. As a practitioner I needed to ensure I did not compromise my professional responsibility and this was an additional strength in establishing rigour and by working with the group, reflexive risk of the sole practitioner is

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Local Government Act 1999 because "There is a clear picture that there has been a fundamental breakdown of governance in this mayoral administration. If unchecked, it will allow improper conduct to run rife, further undermining public confidence in the council, damaging community cohesion, and, ultimately, putting public services across the borough at risk. The consequence of this conclusion, expressed in formal terms, is that I am satisfied that the council is failing to comply with its best value duty. I will therefore need to consider exercising my powers of intervention to secure compliance with the duty."

reduced. Johnson and Duberley (2003, p.1285), observe that there is an argument that provided the researcher applies a scientific method then they could passively accumulate facts. However insider action researchers are not passive because they want to act and improve practice. This was addressed by the repeated use of feedback to the group in terms of briefings of findings and seeking further comment and opinion and such an input reduced the researcher from constructing an apparent reality. Furthermore as the group operated as 'equals' the power relations (Johnson & Duberley 2003, p.1295) of senior managers as gate keepers did not manifest itself, as the PLP's reason for existence was to follow and promote good practice and welcomed the development of praxis (Schon 1983).

7.5.3   Comment on fieldwork

The fieldwork did take longer than I had anticipated and as observed in chapter five, I was concerned that there should be a reasonable gender balance. This meant that the time allotted was exceeded by about three months more than I had planned for. However it had no detriment to data gathering, in that the sample became bigger and the gender dimension was addressed for validity. In terms of comments and recollections of experience there were not any noticeable gender differences.

I had in my research plan the intention to seek to acquire as much qualitative evidence as possible from sources outside my organisation to ensure there was a level of objectivity and less risk of professional compromise. Nevertheless as my organisation provided legal and Monitoring Officer services to two unitary councils, one district council and twelve parish councils there was a potential back-up source of data. This does not mean to say that I will not consider further research in this area; indeed it would be an ideal area to apply the Critical Success Factors. Nevertheless the degree of separation and the contact with external fellow professionals was highly beneficial and enabled a much greater span of elected members to be considered covering three counties.

The above comment could be seen to be contradictory to the insider role. Here is my answer, Coghlan and Brannick make the point that, 'doing action research in your organisation is political' and could be perceived as 'subversive' (Coghlan & Brannick 2010, p.127). I have invested many years with my organisation and considered that while

not wanting to compromise validity, the fundamental purpose of action research is to contribute to both knowledge and practice, thus ambiguity about whether I was carrying out my role as researcher or practitioner was not permissible. I addressed this by being clear that the data from my organisation would be sourced from data available to any person such as reports to the Council's standards committee and that line management was fully aware of the work being carried out with PLP Partnership. I received whole hearted support with the research and people, once briefed, were fully supportive. The key learning point is that as a long term insider, an action researcher needs to be as mindful of their relationships of trust and respect them. Ultimately I want to be a better practitioner so I can carry out my professional responsibilities at a higher performance level and contribute to the improvement of democratic standards, a fundamental underpinning of action research (Reason and Bradbury 2006).

7.5.4   What Have I Learnt? - The effect on my own practices

At the early stage of the research it was clear from the data and my professional practice in dealing with every complaint for my authority that the majority of complaints were without merit. I devised further procedures and complaints management rules which enable a swift disposal of vexatious and unfounded complaints. This meant the second challenge was to take forward the Section 27(1) duty so as to be pro-active in raising standards so there was less likelihood of ground for complaints being established. Thus for me the key learning point is that in addressing the research question the principle issue is not about investigation of complaints - it is elimination of behaviours and practices that may lead to uphold avoidable complaints.

The first influence of the learning process was in assisting me to apply a greater deal of stock-taking of my practice and incorporating reflection. It provided an additional incentive and motivation to find out how the new Localism Act impacted on of my role as a governance solicitor. I therefore in the summer of 2012 volunteered to get involved in the drafting of the new code of conduct to get a feel for what needed to be done. I then moved on to redraft the local codes for planning and licensing which I had originally drafted in 2003. People were happy for me to do so. I wrote:

Looking back at the month of December there never seems to be enough time for ████
*and I to develop a strategy, policy for dealing with complaints in terms of the administrative
dimension. We need to work on this in 2013 because the picture that has emerged is that a
significant number of complaints appear to be without merit. I have taken a proactive
measure to address this by drafting a report for the Standards Committee recommending
the adoption of complaint handling rules - this is going to the committee on 17 January
2013. My reflection is that this measure will give us a framework for being more confident in
rejecting complaints at an early stage.*

Field Notes December 2012

I determined to collect the metrics of complaints and analyse them to see if there could
be any quick wins. It was an insight to see that even under the pre-Localism Act regime
there never was any requirement to report actual numbers of complaints and their
outcomes. When I did pull the statistics together there were simple steps to be taken that
were very effective, for example the Complaints Management Rules which I drafted and
introduced in early 2013.

The engagement with the PLP group as a participative action research partner body was
highly beneficial and led to an excellent body with which to work to explore
improvements in practices. It gave much greater objectivity as I learnt a different
perspective on challenges that Monitoring Officers faced in the district councils with the
pressure of the parish councils in terms of numbers.

The collection of statistics and analysis undoubtedly worked to add credibility and the
extremely helpful Chair was of great assistance in working out the form of the qualitative
evidence collection. I noted:

*Presented findings at PLP Governance – with power-point – came out that Parish Councils
and Planning matters main cause of complaints... The presentation proved to be very
helpful in getting to know senior managers and as the research progressed enabled me to
access a significant body of senior management. Indeed one of the participants
immediately volunteered to be an interviewee and a list was passed round the table. This
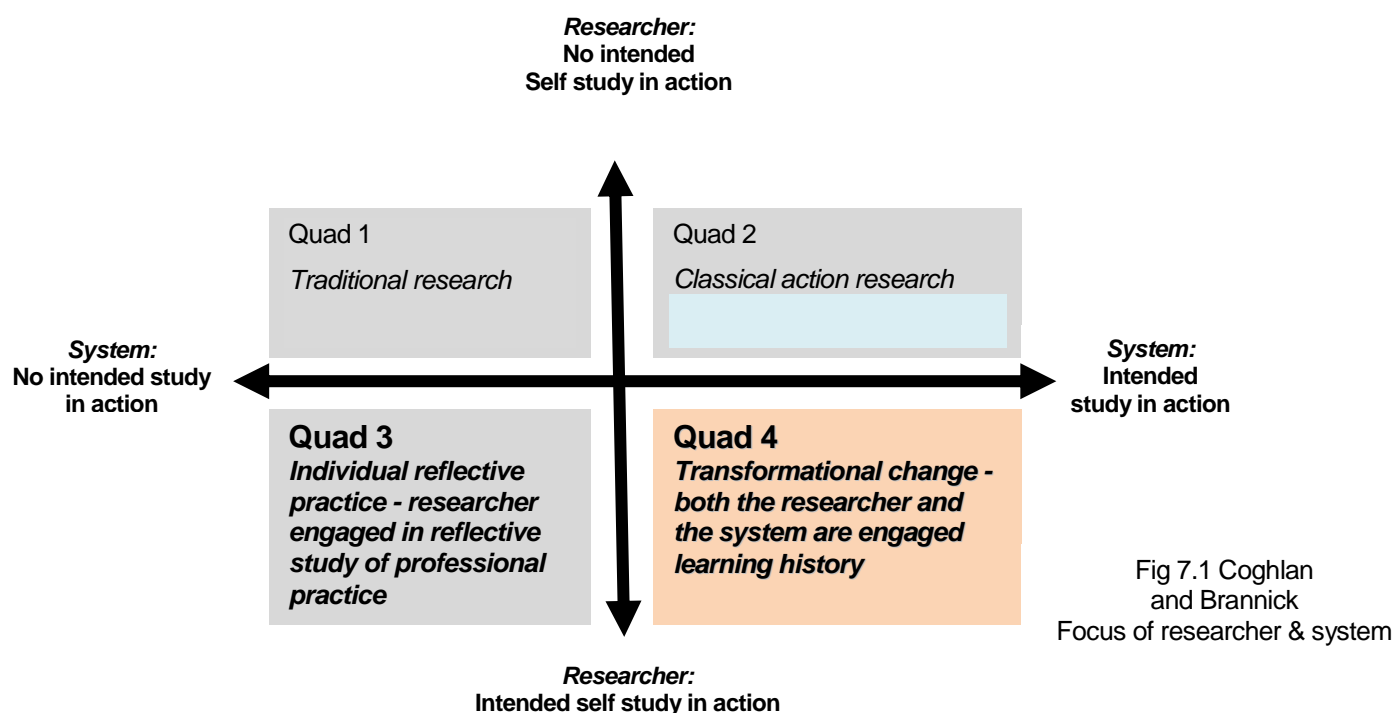was a better outcome than I had anticipated.*

Field Notes 31 May 2013

The working with the PLP organisation over the 18 months of the data collection was fruitful and felt to be really effective participative action learning. I was working with other professionals and gained new practice knowledge by the close working with fellow professionals within PLP. These were new ways of working with new approaches and insights. The Chairs were always willing to assist in terms of discussions regarding the research direction and gave valuable feedback in setting the questions for the semi-structured interviews. The structure of PLP being firmly rooted in the democratic public sector affords opportunities to get involved in the business of PLP and for two years membership of the PLP Management Group. This gave me a chance to apply the skills I had acquired in the MBA[81] and the DBA courses to assist in policy and marketing contributions to the success of PLP.

The PLP data was of great assistance in getting the most out of the semi structured interviews with the interim Chair and member of the Committee for Standards in Public Life. As each interview progressed there was an opportunity to share and discuss observations that earlier interviewees had made thus strengthening the picture. I found the replaying of the interview recordings of assistance in terms of reflective practice and would suggest that as prompting tools, recordings and transcripts add a great deal of value to the learning process as well as being a robust defence against selective note taking.

Coghlan and Brannick (2010, p.148) refer to the *emergent literature* that is further content literature that emerges as being of relevance and assistance as the research reveals findings. The research subject proved to be well timed in terms of literature in that as the inquiry progressed further publication followed on the subject of Localism and it was particularly enjoyable to test the findings against fresh published peer reviewed papers. I return to the Coghlan and Brannick (2010) quadrants of insider research (see Fig 2.2) and the third and fourth quadrants of Coghlan and Brannick (2010, p.103)

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[81] I had previous obtained a Master of Business Administration from London Metropolitan University in 2011.

Fig 7.1 Coghlan and Brannick Focus of researcher & system

To recap, the table is a way of representing the various modes of the insider researcher. The research has been principally located in the fourth quadrant and in the mode of a *'reflective practitioner'* (Schön1983). So far through the means of participative action research working within the researcher's organisation and with PLP has been to contribute to practice for all practitioners engaged in the issues relating to the Localism Act standards issues.

In terms of *Quad 3* the rigour demanded by action research of systematic reflection and reflexivity and need for evidence backed decisions of a practitioner taking into account theory, culture and political context lead to cognitive insights into the working of the Localism Act that were not founded on as it were unaddressed *preunderstandings* and *role duality* (Johnson & Duberley, 2000; Coghlan & Brannick, 2010) of an insider researcher because the participant action research methodology enabled formative theory to be underpinned by working with other professional practitioners who were encountering the same issues, albeit that they were practising rather than carrying the dual role of practitioner and researcher. These multiple reference points contributed to better outcomes for my practice as the exploration of responses and views given to the research objectives enable a bigger picture to emerge and one that assisted in greater understanding of the practitioner's challenge of the Localism Act's ability to improve standards. To establish how I and other practitioners may work to achieve this with

success is of great value for both management theory and improvement of practice. Cunliffe et al (2004) argue that a researcher in an organisational context will be relating and responding to others and these players will have multiple voices and narrations and therefore what is being said is open to contestation. However where there is a level of scale and those voices are as it were all singing from the same song sheet the level of researcher's input on the findings is surely lessened and the data more resilient. I found the common thread that emerged of assistance in ensuring that the research was on track and meaningful.

On an emotional level while one obviously experienced a few let downs as the research progressed, these tended to be about getting interviews together but due to planning and good fortune there were alternatives and all was well in the end. In fact the subject matter of standards proved to be really lively in terms of new developments, a stream of emergent literature and opportunities for further case study as the short-comings identified in the research, particularly poor behaviours and abuses of power of local government leaders, continue to capture the national headlines.

In terms of fellow practitioners one theme I did not expect in terms of broader observations was how alone the interviewees found themselves when dealing with matters relating to members and how much more pressure they must feel they are under now there is no external body such as the Standards Board to refer difficult matters such as complaints about council leaders.

7.5.5 To carry on the research

There are a number of areas I look forward to progressing with the application of the research findings. Part II of this chapter considers the implications to practice and taking the steps forward. I am intrigued by a recent development demonstrated in the 2012 British Olympic Team, the use of *aggregation of marginal gains* (Brailsford 2012). It will be of great interest to see if the steps as identified as *Critical Success Factors* can through their implementation of even of small changes add up to a significant improvement in terms of attitudes to standards.

It would be of considerable interest to delve deeper into the quasi complaints too, that is to say the complaints in body but not in the form they are recorded. A major obstacle is that such matters are likely to be in the very political minefield warned of by Coghlan and Brannick (2010).

I set out in table 7.2 my plan in terms of action to review practice in the light of the *Critical Success Factors* identified and change one's own practice and inform colleagues of the factors identified. These will form part of the second action research cycle and support the intention to contribute to practice of the success or otherwise of the application of the CSFs.

Finally, the concern identified in the research regarding the Localism Act's absence of intervention powers in terms of taking action regarding poor standards of leadership appears to have led to an innovative use of the Local Government Act 1999 by the mechanism of appointing inspectors under that Act for the purpose of ensuring sound financial governance[82]. This use of powers would be well worth further study and I would be minded to examine the contribution that can be made to theory by researching the relationship between political and employed leaders with particular emphasis on situations where the statutory officer roles of Head of Paid Service, the Chief Finance Officer and Monitoring Officer are held by interim appointments or shared with other authorities.

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[82] The Secretary of State's Eric Pickles intervention in Tower Hamlets London Borough Council dated 4 April 2014 (see Appendix of PricewaterhouseCooper 2014).

next cycle actions				
Item	**Action**	**Method**	**Date by**	**Comments**
1	Maintain Journal of reflection	Transcript	Ongoing	Work in progress
2	Take action to train Independent Persons	Seminar inviting Independent Persons from three authorities	March 2015	Completed see main chapter
3	To work with outside bodies	Set up Localism Act Protocol with Police	Spring 2015	Share good practice with other authorities Work in progress Met District Commander for **A** Council A Wrote to District Commander for Council's M and N
4	Apply Critical Success Factors	Build into briefings for PLP and Standards Committee	18 July 2014	On 18 July 2014, I presented the findings to the PLP Governance SIG. The feedback was general agreement and said would pass on thesis in due course
5	Training of elected members	Briefings and workshops	Summer 2014-2015	Trained Planning Committee members June 2014 Trained Members in governance, Trained members in outside bodies Drafting report for standards committee 2 October 2014
6	Ongoing collection of data	Literature review and practice	Ongoing	Work in progress
7	Training of Practitioners	Designed and to present training session accredited	February 2015	Session on governance run on18 February 2015

Table 7.2 Action Plan

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APPENDIX

Semi- Structured Questions

Objective one
Understanding the localism changes in promoting of standards
1. Can you give me a short history of your working with Member complaints

- *If a District Council ask about Parish Council matters – how many? – how do they run their business?*
- *If County Council comment on strategic role*

2. Have you any comments on your local authorities statistics

- *Areas of complaint*
- *Planning re-occurring role – just how many*
- *Any key significant changes good or bad?*

3. Please explain what you understand Localism means and what measures you took

   to implement the new localism regime?

- *Publicity & training?*
- *How often*

4. Do you consider the changes met the Localism objectives?

5. Have you noticed any difference in attitudes and behaviours?

Objective two - **To establish what are the Critical Success Factors to delivering** *Section 27(1) Localism Act 2011* **duty to promote standards?**
6. What do you think are the right steps?

- *Training*
- *What should it be about?*

7. Can you give me examples of how attitudes to standards have changed?

- *Refer to 14th Report Committee + Westminster Hall 16 Jan – have you had chance to look at the 14th Report of Committee on Standards in Public Life – any comments?*
- Do standards determine when political survival matters?
- Local Newspapers

8. Do you think Leadership and Culture makes a difference?

- *Who should lead? an individual – a Standards Committee*
- *Experience of bullying?*
- *How do you establish leadership at Parish level?*

***Objective three* – To build on this research to promote the Section 27 (1) Localism Act duty what steps should we take?**

9. Should there be some national guidelines?

    - Audit Commission & Standards for England

    - Should the profession / Monitoring Officers set some benchmarks

10. Should there be greater sanctions?

11. Any further comments or reflections?

Interview Schedule				
Name	**Occupation**	**Authority**	**Date**	**Comments**
IV01	Monitoring Officer	**A & B**	11 June 2013 09:30	*File A 07* *1hr 06min*
IV02	Head of Legal	**C**	18 June 2013	*File A 09* *1 hr 02min*
IV03	Head of Legal	**D**	5 July 2013	File A 11 1hr 20min
IV04	Acting Chair Committee for Standards in Public Life	**E**	19 July 2013	File A 12 1rh 10min
IV05	Monitoring Officer	**F**	12 Aug 2013 09:00	*File A 13* *1hr 28min* *Page 62*
IV06	Monitoring Officer Solicitor	**G**	12 Aug 2013 14:00	*File A 14* *1hr 25m* *Page*
IV07	Director	**H**	14 Aug 2013	*File A 15* *1hr 19min* *Page 99*
IV08	Chief Legal Officer	**J**	23 Aug 2103	File A 16 1hr 13min
IV09	Legal & Democratic Services Manager	**K**	26 Sept 2013	*File A 17* *1hr 36mim*
IV10	Head of Law	**L**	7 Nov 2013	*File A 18* *1hr 17min*
IV11	Head of Legal	Chair PLP	4 July 2014	*File C04* *11 min*
IV04	Member Committee for Standards	**E**	3 July 2014	*File C 03* *45min*

Supporting documentation

Title: ▮ **Council** **MANAGEMENT OF COMPLAINTS AGAINST COUNCILLORS RULES 2013**	
Report of: The Monitoring Officer	
Open	**For Information**
Wards Affected: None	**Key Decision: No**
Report Author: Paul Feild	**Contact Details:** Tel: 0208 ▮▮▮ E-mail: ▮▮▮▮▮
Accountable Divisional Director:	**XXXXXXXXXX, Monitoring Officer and Head of Legal and Democratic Services**
Accountable Director:	**Chief Executive**

Summary:

On 1 July 2012 the Assembly adopted, as required by the Localism Act 2011, a new local Code of Conduct and Complaint Procedure. The new Code differs from the former statutory Code in that the Monitoring Officer now conducts an initial assessment against approved criteria, may consult with the new Independent Person and tries to resolve matters informally if possible or appropriate. If the complaint requires further investigation / or referral to the Standards Committee there may still be a hearing of a complaint before a Sub-Committee

This report sets out a proposed set of management rules to facilitate early resolution of the requirement to discharge the duty to investigate and conclude complaints made against member particularly in instances where the complaints made about Members are incomplete or require further information. These management rules will enable the Monitoring Officer to request persons who make complaints to provide further details of their complaints including necessary evidence to make a decision; furthermore there are occasions where complaints are open-ended and dilatory and they require a complainant to response in a reasonable time period. These rules have been presented to the Standards Committee for consultation and have been approved for presentation to the Assembly

Recommendation(s)
The Assembly is recommended to approve the Complaints Management Rules attached at Appendix A to this Report and their incorporation into the Constitution in Part E Members Code of Conduct.

Reason(s)

To ensure that Complaints are dealt with in a fair and timely process.

1. Introduction and Background

1.1 The new Code differs from the former statutory Code in that the Monitoring Officer now conducts an initial assessment against approved criteria, may consult with the new Independent Person and tries to resolve matters informally if possible or appropriate. If the complaint requires further investigation / or referral to the Standards Committee there may still be a hearing of a complaint before a Sub-Committee. The legislation expects that the Council develops it own local process for dealing with complaints. To be effective this requires establishment of our own rules about managing the process.

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1.2 All courts and tribunals have their own rules about timescales, rules of evidence and management of cases. To do otherwise leads to the injustice of a complainant effectively determining the pace of a complaint.

1.3 While an accused is presumed to be innocent of any wrong doing until the contrary is proven a slow process is unfair as they live with the fear of uncertainty of potentially facing a future hearing yet not knowing the strength of the accusation.

1.4 During the first few months the need for proactive management has become apparent as a significant proportion of complaints concluded appeared to be motivated by complainants who having utilised mechanisms for complaints and reviews have then taken up complaints against Councillors as another option. The Secretary of State in January this year has expressed a concern that resources are not used to indulge vexatious complaints. These rules will ensure that only well-founded complaints are thoroughly investigated and those without merit are determined promptly.

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2. Proposal and Issues

2.1 This report proposes that a formal set of case management rules is adopted by the Council. They are set out at Appendix A.

2.2 The rules explained:

2.2.1 The rules require a uniform presentation of complaints that is to say all complaints against Members must take the form of a written complaint in the prescribed form unless there special circumstances. They are intended to provide certainty and while allowing clarification ensure the complainant cannot change the facts or issues as the matter progresses thus protracting the process. This ensures certainty and if the complaint is without foundation then it can be discharged of promptly.

2.2.2 Where the complaint is unclear in terms of particulars such that there is no identified specific breach of the Members Code of Conduct the Monitoring

Officer can require the complainant to provide further information for clarification details including

- What the breach is that is alleged
- When it happen
- Where it happen
- Names and contact points of witnesses
- Evidence relevant to the complaint

2.2.3 As observed it is a key requirement that matters are dealt with effectively so that the Monitoring Officer can set a timescale for responses to requests for further information and if that is not forthcoming make a decision on what is available.

2.2.4 The rules take account of the regrettable fact that a significant proportion of complaints against members are for mischievous reasons or frivolous or vexatious in nature and in accordance with localism can now be dismissed at an early stage.

2.2.5 Finally the rules set clarity about communication and data circulation so if a matter proceeds to investigation the Monitoring Officer may circulate to whoever they consider necessary copies of the complaint and that includes the Member and their representative(s) and outside agencies rather than let the complainant dictate the circulation.

3. Options Appraisal

- Do nothing   This is contrary to good practice as statutory bodies are rightly expected to efficiently manage their processes. It is unfair on both the Member and Complainants for matters to drag indefinitely and a waste of both time and scarce resources

- Don't do anything just yet   It could be said that we could adopt a wait and see approach; however early information is that complaints are requiring follow-up requests for information on a repetitive basis due to vagueness and incoherence of the complainants. This is unacceptable.

- Take action   We consider this is the right approach a pro-active case management is a hallmark of a well administered tribunal

4. Consultation
N/A

5. Financial Implications
N/A

6.   Legal Implications

Implications completed by: Paul Feild, Senior Governance Lawyer

Telephone and email: 020 ████████   ████████████████

6.1   The Localism Act 2011 sets the task to a Local Authority of developing a local management of complaints and the proposals set out in this report are devised to contribute to this aim.

6.2   The Complaints Management Rules will contribute to a timely and fairer process which is in the interests of justice for all concerned.

7.   Other Implications N/A

APPENDIX A

█████ COUNCIL
Management of Complaints against Members Rules 2013

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1. All complaints against Members must take the form of a written complaint in the prescribed form unless special circumstances exist as determined by the Monitoring Officer whose decision is final

2. Where the complaint is unclear in terms of particulars such that there is no specific breach of the Members Code of Conduct the Monitoring Officer shall invite the complainant to furnish further or clarification details including

   - What the breach is that is alleged
   - When it happen
   - Where it happen
   - Names and contact points of witnesses
   - Evidence relevant to the complaint

3. The Monitoring Officer may set a time for a response to rule 2 not less than 21 days

4. The Monitoring Officer will only act where is sufficient evidence in their opinion to do so

5. Following a period for clarification the Monitoring Officer may proceed with the complaint and make a determination as to whether the complaint merits a formal investigation and if not the matter is dismissed

6. The Monitoring Officer may dismiss a complaint without resort to further investigation if they are of the opinion that the complaint is (any one of the following or more)

   a. lacking in evidence
   b. Fails to identify any breach
   c. politically motivated
   d. vexatious
   e. repetitive
   f. defamatory
   g. has no reasonable prospect of success
   h. it is effectively a previous complaint that has been determined

7. If a matter proceeds to investigation the Monitoring Officer may circulate to whoever they consider necessary copies of the complaint and that includes the Member and their representative(s) and outside agencies

8. During the investigation the Monitoring Officer may require the complainant to furnish further details or co-operate in terms of disclosure of evidence, if the complainant fails to co-operate in a timely manner or does not make themselves available the Monitoring Officer may continue their investigation in the absence of the complainants co-operation including making a determination to dismiss the complaint.

The Monitoring Officer may require the Complainant to adopt a prescribed form of communication including directing the Complainant not to contact the Members concerned or to only use a specified address for e-mail. If these requirements are not complied with the Monitoring Officer may continue their investigation in the absence of the complainant's co-operation including making a determination to dismiss the complaint

Constitution - The Role of the Member of ▮▮▮
Discussion Paper
11 Feb 2013

Issue
A significant number of complaints against Members under the Localism Act are to do with how they respond to a citizen approaching them with an issue or problem which the person has with the Council Services. The Member finds themselves the subject of a Complaint when the real issue is the resident's dissatisfaction with their complaint handling by the Council

The ▮▮▮ Constitution is remarkably silent on this issue.
The Role of a Member in the Constitution is only specifically addressed at Part A (Below) otherwise it is through rules of conduct in Part E

Extract

Part A

Para 3

Councillors
Our organisation is made up of ▮▮ councillors who you elect at the local elections every four years. There is an up-to-date list of councillors in local libraries, at the Civic Centre, at the Town Hall and on our website (www.barking-dagenham.gov.uk). The Borough is divided into 17 areas called 'Wards' (see the map in part 6). Each Ward elects three councillors. To stand for election, councillors have to live or work in the borough or be on the electoral register.
Councillors have two main roles. They must:
represent the whole community by making decisions about our policies, services and finances; and
represent the interests of the people in their ward.

Councillors are your main link to us and will give you advice and help if you need it. Councillors also hold 'surgeries' where you can talk to them face to face. Or you can phone, e-mail or write to your councillor. Their contact details are on our website or you can ask the Member Support Officer for their details by telephone on ▮▮▮▮▮▮, or by e-mail to ▮▮▮▮▮▮

Analysis
Of the Complaints received in last six months:
- Three individuals complaints related to response to complaint about parking
- One individual related to handling of Pension

This has involved a total of 8 separate Complaints against Members – all could have been avoided at first stage if we set out more clearly the Members role.

Observation
The Role is defined in two parts that is in terms of representation and secondly representing the interests of people in their Ward. It is suggested that the second role of a Member requires greater clarification because it is a key element in terms of managing Complaints; that is to say we need to set a clear boundary of what is a Members role and thus subject to the code and what is not.

Options
More dialogue with Members – are we giving them the help they need?
Training
Re-draft Constitution
Set up Protocol for Members in terms of referral of complaints by residents to Officers

Notes
Findings presented to DL 11 Feb 2013

Very helpful discussions followed we reviewed the complaints so far for LBBD
Discussed recent Ministerial observations

Agreed we would set out to define more clearly the role of Members to insert in time in the Constitution

I would draft a meeting with citizen referral form
████ would look into defining better role of Member

Copy of letter for
PLP Members

Dear Sir/ Madam,   20 February 2013

Research into Improvement of Practice – Implementation of
Local Investigation of Complaints post Localism Act 2011 Quantitative **Data**

Reason for Request

I am conducting a participant action research enquiry to assemble quantitative data regarding the Local Investigation of Complaints against elected Members in connection with a thesis for a Doctorate in Business Administration with London Metropolitan University Business School. The Thesis asks:

How can I / We improve Practice in the Implementation of Local Investigation of Complaints post Localism Act 2011?

As you will be aware the responsibility for consideration of Complaints against elected members of Local Authorities shifted from the Standards Board for England to Local Authorities from 1 July 2012. Under the principle of *localism* the method and approach will inevitably vary from authority to authority indeed there has been Ministerial observations in January this year as to how some complaints should be treated.

Why it Would be Good for Your Authority to take Part and Help

I will provide a final copy of the analysis to all participants. This will be of really value to your organisation because it will assist in assembling a picture of how your organisation fits in to the overall picture of localism and complaints. This initial survey will set the scene of the end of the old regime and how the new scheme is going. For example some early key issues appear to be: the filtering process; allocation for investigation; threshold for further investigation and independent persons involvement and the challenge of being resourced to do the role with austerity times. I intend to follow up the findings with qualitative evidence through selected semi-structured interviews with participants; here issues such as relationships with Members and Governance will be explored. The best practice will be shared with those who take part and your participation will send out the message about commitment to joint working across boundaries underpinned by evidence-based research.

I do hope you are enthused by this initiative and so pursuant to the Freedom of Information Act 2000 to seek the following information (form is next page):

> **Please can you provide details regarding against elected Members for the following years 2010, 2011 and 2012?**
>
> 1. Number for each year
> 2. Number not investigated
> 3. Number investigated
> 4. Number up held
> 5. Number of complaints rejected due to being frivolous vexatious or trivia
> 6. Origin of Complaint – Member - Officer – Citizen
> 7. Use of mediation or informal resolution
> 8. The use of independent investigators
> 9. Involvement of independent persons
> 10. Any legal challenge or involvement

Many thanks
Yours faithfully
Paul R Feild
Paul R Feild Solicitor LL.B, LL.M, BA, MBA, DipLG, MCMI

Local Investigation of Complaints post Localism Act 2011

		Name of Authority A Borough Council				
	Measure	2010	2011	2012 to June 30	2012 July onward	Any Comments?
1	*Number of Complaints for each year*					
2	*Number of Complaints not investigated*					
3	*Number of complaints investigated*					
4	*Number of complaints up held*					
5	*Number of complaints rejected due to being frivolous vexatious or trivia*					
6	*Origin of Complaint*					
	Member					
	Officer					
	Citizen					
7	*Use of mediation or informal resolution*					
8	*The use of independent investigators*					
9	*Involvement of independent persons*					
10	*Any legal challenge or involvement*					
Any other comments ?						

Please return to ▓▓▓▓▓▓▓▓▓▓ / ▓▓▓▓▓▓▓▓▓▓

To
The Secretary
CSPL
Room G07
1 Horse Guards Road
London SW1A 2HQ

From
Paul Feild

████████████

Paul.feild@███.gov.uk
Paul.feild@btopenworld.com

6 May 2013

Your Ref – Mr ████████████

Dear ████,

Research into Improvement of Practice – Implementation of
Local Investigation of Complaints post Localism Act 2011 – 14th Report of the Committee on Standards in Public Life

Reason for Contact

I am a practising solicitor (Senior Governance Lawyer for a London Borough) and conducting a *participant action research enquiry* to assemble data regarding the Local Investigation of Complaints against elected Members in connection with a thesis for a Doctorate in Business Administration with London Metropolitan University Business School. The Thesis asks:

How can I / We improve Practice in the Implementation of Local Investigation of Complaints post Localism Act 2011?

As you will be aware responsibility for Complaints against elected members of Local Authorities shifted from Standards for England to Local Authorities from 1 July 2012. Under the principle of *localism* the method and approach will inevitably vary from authority to authority indeed there has been Ministerial observations in January this year as to how some complaints should be treated.

I read with great interest the Committees 14th Report and plan to use it as a source material for semi-structured interviews later this year.

Request for Information

In the report at *page 22* the Committee expresses *'considerable doubt'* about the new local government arrangements for dealing with conduct issues of elected members.

Please could you disclose to me the evidential basis or if confidential a summary of why the Committee came to that conclusion?

I would appreciate if possible an opportunity to talk to an official preferably someone like you in a semi-structured interview to get a greater in-depth grasp of the issues. I would then use the data as a basis for further interviews with local government legal advisors. I would be delighted to keep the committee informed with progress and provide a copy of my findings to date.

Many thanks

Yours sincerely

Paul R Feild

Paul R Feild Solicitor LL.B, LL.M, BA, MBA, DipLG, MCMI

To
Name & Address of
Interviewee

From
Paul Feild

020 8227 3133

June 2013

Dear   ,

**Research into Improvement of Practice – Implementation of
Local Investigation of Complaints post Localism Act 2011 – 14th Report of the Committee on
Standards in Public Life**

Reason for Contact

I am a practising solicitor (Senior Governance Lawyer for a London Borough) and conducting a *participant action research enquiry* to assemble data regarding the Local Investigation of Complaints against elected Members in connection with a thesis for a Doctorate in Business Administration with London Metropolitan University Business School. The Thesis asks:

How can I / We improve Practice in the Implementation of Local Investigation of Complaints post Localism Act 2011?

As you will be aware responsibility for Complaints against elected members of Local Authorities shifted from Standards for England to Local Authorities from 1 July 2012. There is an explicit duty under section 27 to promote and maintain high standards of conduct. Under the principle of *localism* the method and approach will inevitably vary from authority to authority indeed there has been Ministerial observations in January this year as to how some complaints should be treated.

It would appear that due to your experience and knowledge your view would be very valuable to me in my work.

The plan is to carry out a series of semi structured interviews with a number of key individuals within the Public Law Partnership. These would be professionals who can give an insight as to the changes which have occurred regarding governance post Localism Act and inquire as to how we can improve practice with regard to complaints.

The plan is to carry out interviews in late June, July and August I envisage they will take 45 minutes to an hour or slightly more. I attach a draft set of questions.

I am aware that there is a need to treat any responses with the utmost confidentiality and no source individual or department will be identified or comment attributed without the express permission of the originator.

The responses will inform the thesis paper and I would be happy to send a copy to each of the participants in the study.

I do hope you will be able to help me and should be grateful if you would let me know and I can then contact you to fix a suitable time and venue. If you would prefer to talk please feel free to contact me on the above number(s)

Yours sincerely

Interview script

Hello, my name is Paul Feild I hope you recall that you agreed to participate at this time in a research project I am conducting for Doctorate in Business Administration (DBA).

I am a practising solicitor (Senior Governance Lawyer for a London Borough) and conducting a *participant action research enquiry* to assemble data regarding the local investigation of complaints against elected members in connection with a thesis for a DBA with London Metropolitan University Business School. The Thesis asks:

How can I / We improve practice in the implementation of local investigation of complaints post Localism Act 2011?

 I am interviewing by means of semi- structured method a purposive sample of local authority officials about their experiences with the Localism Act 2011 (the 'Act').

Semi-structure interviews commence on a framework of key questions to participants which are then expanded individually.

Ethics

All interview responses will remain confidential. Identifying information will not be cited in reports of the research without consent. I produce an informed consent form which I would like you to take a moment to read.

Background to Questions

As you will be aware responsibility for Complaints against elected members of Local Authorities shifted from the Standards Board for England to Local Authorities from 1 July 2012. There is an explicit duty under section 27(1) of the Act to promote and maintain high standards of conduct. Under the principle of *localism* the method and approach will inevitably vary from authority to authority indeed there has been Ministerial observations in January this year as to how some complaints should be treated.

The initial literature review points towards a key finding; that localism contains a paradox in that on the one hand the Government wants to see codes of conduct and how they are promoted to be determined at a local level yet there is little guidance as to how this should be executed. Furthermore there has been specific criticism of Monitoring Officers acting so as to control elected members by continuing to maintain the previous regime and as it were having 'gold plated' processes. This view was developed at length in the Westminster Hall debate on 16 January 2013.

Objectives of Interview

This is the first of a series of interviews is to acquire qualitative data to inform a picture as to where authorities find themselves in the first year of the new localism regime. I have previously acquired quantitative data on a longitudinal time study for the period 2010 – June 2012 (pre Localism) and July - 31 December 2012.

I want to discover what has been the experience of your authority, what has gone well and not so well. I'd like to hear in your own words reactions and observations as to how the new regime has been adopted by members and what you consider are the learning points so far. I want to gather together views on best practice and identify the critical success factors to delivering the section 27(1) duty.

I will assemble the comments and observations and circulate them in an anonymity form to peer practitioners with specific emphasis on encouraging academic debate and with a view to encouraging improvement in professional practice. I will then review the effectiveness of this initiative.

As a result the semi-structured interview seeks to find an understanding from the participants regarding 3 objectives:

Interview Objectives

The research questions that emerge requiring further work to explore:

- **<u>Objective one</u> - To understand the localism changes in the promoting of standards – where are we now?**

- **<u>Objective two</u> - To establish what are the Critical Success Factors to delivering section 27 duty to promote standards?**

- **<u>Objective three</u> – To build on this research to promote the Localism section 27 duty what steps should we take?**

Research questions for semi structured interviews

Objective One - Understanding the localism changes in promoting of standards

1. can you give me a short history of your working with member complaints
   - *If a district council ask about parish council matters – how many? – how do they run their business?*
   - *If county council comment on strategic role*
2. Have you any comments on your local authorities statistics
   - *Areas of complaint*
   - *Planning re-occurring role – just how many*
   - *Any key significant changes good or bad?*
3. Please explain what you understand localism means and what measures you took to implement the new localism regime?
   - *Publicity and training?*
   - *How often*
4. Do you consider the changes met the objectives?

5. Have you noticed any difference in attitudes and behaviours?

Objective two - To establish what are the critical success factors to delivering *Section 27(1) Localism Act 2011* **duty to promote and maintain standards?**

6. What do you think are the right steps
   - *Training*
   - *What should it be about?*
7. Can you give me examples of how attitudes to standards have changed?
   - *Refer to 14th Report Committee + Westminster Hall 16 Jan – have you had chance to look at the 14th Report of Committee on Standards in Public Life – any comments?*
   - Do standards determinate when political survival matters?
   - Local Newspapers
8. Do you think leadership and culture makes a difference?
   - *Who should lead? an individual – a Standards Committee*
   - *Experience of bullying?*
   - *How do you establish leadership at parish level?*

Objective three – To build on this research to promote the Section 27 (1) Localism Act duty what steps should we take?

9. Should we have some national guidelines?
   - Audit Commission and Standards for England
   - Should the profession / Monitoring Officers set some benchmarks
10. Should there be greater sanctions?

11. Any further comments or reflections?

Informed Consent Form

How can I / We improve Practice in the Implementation of Local Investigation of Complaints post Localism Act 2011?

Researcher:
Paul R Feild Solicitor LL.B, LL.M, BA, MBA, DipLG, MCMI
Course - Doctor of Business Administration London Metropolitan University Business School Moorgate
contact telephone 020 ███████
 e-mail ████████████ / ████████████

Purpose of the research:
I am a practising solicitor (Senior Governance Lawyer for a London Borough) and conducting an action research enquiry to assemble data regarding the Local Investigation of Complaints against elected members in connection with a thesis for a Doctorate in Business Administration with London Metropolitan University Business School. This is applied research that is directed to improve practice for all professionals working in local government.

What you will be asked to do in the research:
The plan is to carry out a series of semi structured interviews with a number of key individuals within the Public Law Partnership. These would be professionals who can give an insight as to the changes which have occurred regarding governance post Localism Act 2011 and inquire as to how we can improve practice with regard to complaints. The intention is to carry out interviews in late June, July and August I envisage it will take 45 minutes to an hour or so.

Rewards, Risks and discomforts:
There is no reason to believe there will be any harmful effect or cause for distress. This is work that will improve practice and create better professional approaches and so any reward will be about a greater sense of fulfilment in practice. It is not envisaged there will be any conflict of interest as there will not be any call for any disclosure of personal or financial information that is not otherwise accessible by Freedom of Information Act requests. A letter of introduction will be used setting out the reason for the enquiry and it will be raised specifically at the commencement of interviews. There will not be any use of information acquired outside the United Kingdom nor is it considered likely there will be any potential for international repercussions or compromise of any participant with any foreign government's interest.

Benefits of the research and benefits to you and your organisation:
I will provide a final copy of the analysis to all participants. This will be of real value to your organisation because it will assist in assembling a picture of how your organisation fits in to the overall picture of localism and complaints. This work will set the scene of the end of the old regime and how the new scheme is going. For example some early key issues appear to be: volumes; the filtering process; number of Member against Member complaints; allocation for investigation; threshold for further investigation and independent person's involvement and the challenge of being resourced to do the role with austerity times.
The responses will inform the thesis paper and I would be happy to send a copy of the thesis to each of the participants in the study.

Confidentiality:
All participants unless they expressly agree will be reported with anonymity. There is no call for recording personal information and as working with other legal professionals in the public sector we are all familiar of the responsibility for managing sensitive personal information as required under the Data Protection Act 1998. The interviews will be carried out in a work setting in separate rooms where the questions and replies will be not be overheard by third parties. The Interviews will be electronically recorded and kept on a password protected archive. The researcher is working with a group of practitioners so they will potentially wish to share in letting it know they took part in promoting good public administration.

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[83] **NOTES**
Informed consent documentation is required whenever there are human participants involved in research.

Questions about the research?
If you have questions about the research in general or their role in the study that they should contact the researcher or their supervisor. The Supervisor is Dr Robert Carty ███████████████). This research proposal has been reviewed and approved by the London Metropolitan University Business School faculty's Research Ethics Review Panel in April 2013.

Voluntary participation:
I understand my participation in the research is completely voluntary and that I may choose to or to refuse to answer particular questions or stop participating at any time. A participant's decision not to continue participating will not influence their relationship or the nature of their relationship with researchers or with staff of Metropolitan University Business School either now or in the future.

Legal Rights and Signatures:

I …………………………………………………..…. consent to participate in an action research enquiry to assemble data regarding the Local Investigation of Complaints against elected Members in connection with a thesis for a Doctorate in Business Administration conducted by *Paul Feild* . I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature Date
Participant: name

………………………………………………………Date……/……./ 201…

Signature Date
Principal Investigator: name

Optional: Additional consent
If you require additional consent (e.g., for video/audio recording, to waive anonymity, to authorize the use photographs, to use associated data, etc.) include check boxes or request additional signatures.

I agree to the recording of my interview

Extract from field Notes – Lord Hanningfield

26 May 2014

While writing up the issue about culture and my reflection of 23 April I followed up this reflection with the recent example of Lord Hanningfield the former County Council Leader. He was charged in February 2010 and was convicted of making false claims to the House of Lords and sentenced to prison. He stepped down from being Leader of the Council and in due course because of his length of sentence he was disqualified under the Local Government Act 1972. This month a further report was covered in the press regarding the finding of the House of Lords' Committee for Privileges and Conduct – *Fourteenth Report The conduct of Lord Hanningfield* and the finding of him being in breach of his honour in making false claims on 13 occasions in 2013.

On the removal of Hanningfield in 2010 the new Leader immediately commenced, established and chaired a 'Corporate Governance Steering Board to oversee the introduction of improved governance processes and procedures'. The membership of the Board would be made up of the Leader, Deputy Leader, Leader of the Opposition and in addition the Chief Executive, the Director for Finance and the Monitoring Officer.

While the steps are to be welcomed the reputational damage to local politics will take years to repair. The organisation had been seriously damaged by a powerful personality. While this matter happened prior to the Localism Act the new legislation does not have an answer to the challenge of bringing an errant leader to account. Hanningfield was convicted of making false claims to the House of Lords and sentenced to prison. On being charged in February 2010 he stepped down from being Leader of the Council and in due course because of his length of sentence, he was disqualified under the local Government Act 1972. The report (Essex County Council 2012, para 2.2) revealed that 'Concerns over credit card expenditure were initially identified around 2003', yet it appears nothing was further done until a follow up audit in 2009. As the Report published with it the full use by the Member of the Credit Card for 2005 – 2010, I carried out a quantitative analysis of the number of

occasions when just lunch or dinner was claimed when officers were present and set them out below:

Lord Hanningfield's Credit Card – Council Published Accounts	
Year	Occasions of Lunch / Dinner Officers Present
2005/6	81
2006/7	63
2007/8	70
2008/9	75
2009/10[84]	26
Total	315

Clearly the behaviour of the Leader in terms of dinning at the public expense could not have been unknown to officers and the records demonstrate they were present on no less than 315 occasions. The Council published on its website a series of frequently asked questions and stated:

> 'Q: What processes and governance are in place regarding Members' expenses and use of credit cards?
> A: Prior to May 2010 the Leader, and only the Leader, was able to self-certify his own expenditure.
> Q: Will there be any action taken against Officers?
> A: There are no grounds to take any action against any Officers.'

My reflection on this incident is that it was the new Leader who took leadership with the ethical side, and ultimately it is the elected leaders who set the climate of behaviour. I think it is very difficult for employed officials to moderate big personalities; it is like asking servants to investigate their masters. This is exactly the type of matter which would have best been dealt with by an independent panel external to the organisation.

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[84] February 2010 - Hanningfield is arrested for Fraudulent Accounting.

Appendix – Finding paper for discussion on 3, 4 and 18 July 2014

Doctorate Research - Findings

Feedback Sessions July 2014

Introduction

The purpose of this document is to set out the findings of the qualitative research objectives :

- Understanding the localism changes in promoting of standards
- To establish what are the Critical Success Factors to delivering *Section 27(1) Localism Act 2011* duty to promote standards?
- To build on this research to promote the Section 27 (1) Localism Act duty what steps should we take?

Findings

<u>Objective one</u>- Understanding the localism changes in promoting of standards

The evidence is that the Localism Act achieved the government's objective in enabling a reduction in petty and vexatious complaints. However it has been of minimal effect in terms of delivering improvement of attitudes and behaviours regarding the duty on authorities to promote and maintain high standards of conduct of members.   The data on review was considered in terms of Schon's (1987) *reflection on action*. This released a finding which I describe as being the key finding of Objective One from the qualitative research:

Key Finding – Localism Act's duty of local authorities to maintain and promote high standards is frustrated by local culture

Thus the finding from the interview session is that the Localism Act in practice has appeared not to have brought any change in terms of improvement in standards and if anything has weakened the ability to deal with complaints with any degree of

consistency, because localism preserves the pre-existing culture within the local authority organisations which are subject to the section 27 duty.

On 24 January 2014 I raised this finding with the *PLP Governance* meeting; the minutes recorded:

> Paul Feild presented his work on improving practices/complaints post Localism Act 2011.
> Concerns that the workload on MOs involving parishes is only going to increase, many of the complaints involve parish councillors.
> Paul made the point (referring to the Berwick report into the NHS) that it is the culture that needs to change.
> Discussion took place as to how the culture could be encouraged to change and how PLP could influence this:
>
> - Member induction post 2015/2016
> - Training/workshops for Parishes
> - Educating those proposing to stand as Councillors in their new role if they are elected in particular transparency in relation to interests (include something in Candidates Packs)
> - Planning and licensing protocols (probity in planning but what about licensing)
> - Emphasise criminal sanctions (see DCLG guidance) – recognising difficulty in the lack of police engagement
> - Visibility of Monitoring Officers or other governance officers at parish council meetings (experience in authorities of this having a positive dampening effect on parish councillors who would be tempted to misbehave)

<div align="right">

PLP Governance Special Interest Group
24 January 2014

</div>

It means that Objective two's findings in terms of Critical Success Factors for maintaining and promoting high standards becomes of greater importance because the promotion and maintenance of standards will also be subject to the local culture.

The Committee for Standards in Public Life expressed concerns about culture in its 10th report. Their key concern was that the centralisation of complaints established under the Local Government Act 2000 undermined the ability of standards committees to set standards locally:

> CULTURE - the centralised system has arguably removed primary responsibility for standards from individual authorities (and members). Local Standards Committees critical in our view to embedding high standards in each local authority are under-used and in danger of falling into disrepair
>
> 10th Report p.3

The standards committees set up under the Local Government Act 2000 thus went through a period of ineffectiveness by being subject to the national scheme. Following the 10th report of the Committee for Standards in Public Life, the government in 2007 legislated to require that the committees took a greater role in the handling of complaints but with independent chairs. When principal councils became under a duty to promote and maintain standards by the Localism Act in 2012 the preferred vehicle for doing so for local authorities appeared to be in the data sample their existing standards committees (if they decided to keep them) or their successors, but the Localism Act also required the independent chairs were to be dismissed and so such committees would henceforth be chaired by elected members. The consequences were that a process at local level which was identified as weakening suffered further upheaval. Furthermore in its weakened state it was then given further responsibility for standards leadership while whatever the existing culture was at local level was able to continue unmoderated by a consistent approach or the input of an independent chair outside the political structure. A table sets out how the sample authorities located their section 27 duties within their constitution.

Authority	Comments	Constitution
A		No provision
B	███	Joint Standards Committee
C	███	Standards Committee
D	███	Standards Committee
E	████	~~~~~~~~~~~~
F	███	Standards Committee
G	█████	Joint Standards Committee
H	█████	Audit Committee
J	█████	Standards Committee
K	████	Governance Committee
L	███	Review Committee
M	███	Standards and Audit Committee
N	███	Standards Committee
P	███	Joint Standards Committee
Q	███	Audit and Standards
R	███	Governance Committee

Objective two - To establish what are the Critical Success Factors to delivering _Section 27(1) Localism Act 2011_ duty to promote standards?

The critical success factors were reviewed with a member of the Committee for Standards in Public life and amended with the feedback.

The research points towards the following Critical Success Factors:

- Active promotion and leadership on a standards culture by leader, elected members and chief officers

- The use of one to one sessions by the Monitoring Officer to discuss the code of conduct, the training requirements and seek a commitment is identified from the research to be a Critical Success Factor in establishing a commitment to the promotion and maintenance of standards.

- That a programme of promotion and monitoring is established

- Importance of the existence of a Standards Committee appears to establish some order and process

- A preference that there was consistency in dealing with complaints and same codes for all

- Need for members' training in standards, interests and best practice

- Active management of cases

- Getting the role of Independent Persons defined

- Specific outcomes in terms of key measures of performance (identified by the Chair of Committee for Standards in Public Life) of evidence that:
  - The section 27 duty has been taken seriously – demonstrable evidence – not loads of paper – that it's biting into the culture
  - Evidence that people who have been appointed as Independent Persons are capable and the role is capable of being delivered – because it does have some inherent tensions in it
  - The acid test around the new arrangements are then; evidence of public confidence
  - Things are dealt with in a timely and proportionate way – it is not turned into a back door way of re- introducing the old system

Furthermore two recent papers in PAR Lawton and Macaulay (2014) and Hickey (2014) appear to confirm dismantling of the Standards Committee was flawed. I discussed this with training colleague and she observed that peer pressure will be more effective.

a) Any further comments on those findings?

b) Would you add any more?

Objective three – To build on this research to promote the Section 27 (1) Localism Act duty what steps should we take?

Introduction

This Objective gave the participants the opportunity to give their views on the legal duty on their authorities to maintain and promote high standards of conduct,

Review of current arrangements

The Interviews do reveal a number of clear areas of concern that emerged when participants were asked to review the current arrangements and process in the light of the last 18 months. As the research shows an area of specific concern is whether the decisions made on conduct complaints are sound. The arrangements made by authorities work for a sense of finality rather than fairness.

While there is no legal duty to have a right of appeal it does seem unfair that there should not at least be an appeal against sanction.

The Need for More Guidance

This expectation on current evidence is highly unlikely as it would appear to be contradictory to the spirit of localism. The only example of any guidance issued since the original legislation to provide clarification on the subject of standards has been the guidance, 'Openness and transparency on personal interests: A guide for councillors' published in September 2013 (which required Members to declare if they were a member of a trade union). However as this membership was not one of the disclosable pecuniary interests, the guidance was simply advisory and not to be made a legal requirement. The likelihood is that if there is guidance it will have to come from a body such as CSPL. The Secretary of State has released little guidance on the operation of standards since 2012 except on 20 September 2013 when new guidance was circulated on the requirement that it was now a responsibility for elected Members to declare if they held membership of trade unions. This requirement is questionable because the only mandatory declarations relate to 'disclosable pecuniary interests' under section 30(3) of the Localism Act 2011. Being a member of a trade union is not one of them. This creates a paradox in that as the interest is not a mandatory interest it must be a local matter to determine as to whether it ought to be declared, yet the Government has issued guidance. This approach can be contrasted with the CSPL which continues to publish reports containing guidance such as the 14th Report. The dichotomy can be presented as localism as defined by government prevents them from giving guidance that would undermine the *localness* of the decision making.

How can this be achieved? It is essentially a national policy objective which will need advocates for change; this is a matter which is beyond the scope and resources of this research, though the findings will be highlighted with organisations better placed to take the matter forward.

Leadership

As Objective One's findings illustrate leadership for standards was not uniform, with a variety of different approaches from seeing it as a collective responsibility of the Leader

and Chief Officers and all the Council to a specific committee or in several cases no obvious leadership at all. The analysis suggests a discussion on the need for leadership in terms of standards. As can be seen in the replies to questions on leadership there is much that could be done to promote leader ship on standards. This is a matter which can be taken forward within the practitioner's own practice and that of its colleagues within PLP. It can form part of the next cycle and be raised at the next available Governance Special Interest Group. Finally there is the difficult issue of what is to be done if it is the leader of the council who is breaching the code.

Sanctions and the right of appeal

There was a consistent call for greater sanctions. As observed, actions in one borough may be a breach and not in another, IV02 had observed (IV02, p.27) that he would have said definitely yes for more sanctions but now he was not so sure whether sanctions act as a deterrent. But the whole point of the Localism Act is to promote high standards not to have deterrence against knowingly bad behaviour.

The view was that the current sanctions were ineffective. However the reason for the perceived weakness of sanctions appears to be located in the deliberate omission of a right of appeal. A concern that has emerged is how fair are the complaints processes? The Human Rights Act 1998 incorporates the European Convention on Human Rights into English Law. The key issue is the wording of Article 6(1) which provides:

> …In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice…

Human Rights Act 1998 Schedule 1- The Articles

Clive Sheldon QC in his 20 January 2012 *Advice to Association of Council Secretaries and Solicitors* considered the effect of the European Convention of Human Rights Article 6 that is:

> …(iii) Possible Sanctions
>
> 24. Against this background, I will consider the various sanctions proposals suggested in my Instructions: are they available to a local authority and whether any of them would engage Article 6 of the European Convention on Human Rights ('the Convention') so as to require an independent appeals process if they were implemented.
>
> 27. In Pierre-Bloch, the European Court of Human Rights held at §50 that the 'right to stand for election to the National Assembly and to keep his seat [was] . . . a political one and not a 'civil' one within the meaning of Article 6(1) so that disputes relating to the arrangements for the exercise of it—such as ones concerning candidates' obligation to limit their election expenditure—lie outside the scope of that provision.' The fact that there was an 'economic aspect of the proceedings in issue does not, however, make them 'civil' ones within the meaning of Article 6(1)': at §51.
>
> 43. If the 'civil rights' aspects of Article 6 had to be complied with, however, then it seems to me that it would not be possible for this to be done within the local authority committee structure, as there would not be sufficient independence or impartiality; and the supervisory jurisdiction of the Administrative Court by way of judicial review is unlikely to remedy the lack of impartiality at the first stage: the role of the Administrative Court will be to review, rather than to re-hear the case against the councillor.
>
> 44. It would be necessary; it seems to me, for the local authority to establish some form of independent appeal. It could be that this could be done by means of utilising the services of an 'independent' person; albeit not the same 'independent' person who has been involved in the particular decision that led to the sanction…

In summary it appeared from the collective opinion that they considered that the sanction regime was inadequate and there was a need for stronger sanctions, however if there

were stronger sanctions then there would be a stronger case perhaps irresistible for greater formalism including rights of appeal to a national body and that would be contrary to localism.

Right of Appeal

The statutory right of Appeal was removed with the Localism Act even to matters that occurred prior to the Localism Act. The Minister in a circular dated December 2010 explained:

> ...Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date. The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England). Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training...

In summary if the level of sanctions was raised then the case for a right of appeal would become stronger, and a need for a degree of independence.

a) Any further comments or reflections?

Thank you

List of observation –participation events at home authority

2013

1. *Development Control Board*
2. *Training of members in planning governance*
3. *Standards Committee*
4. *Training of members' Standards Committee in governance*

2014

1. *Independent Persons' training*
2. *Development Control Board*
3. *Standards Committee*
4. *Training of members in governance Training of members in planning governance*
5. *Members' introduction to the constitution*
6. *Police Protocol*
7. *Members' training on membership of outside bodies*
8. *Living and Working Scrutiny Sub-Committee*