



House of Commons

ODPM: Housing, Planning,
Local Government and the
Regions Committee

The Role and Effectiveness of the Standards Board for England

Seventh Report of Session 2004–05

*Report, together with formal minutes, oral and
written evidence*

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The ODPM: Housing, Planning, Local Government and the Regions Committee

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Contents

Report	<i>Page</i>
Summary	3
1 Introduction	5
Trust and confidence	5
Conduct of the inquiry	5
2 The Ethical Framework for Local Government	7
Development of the Ethical Framework	7
Devolved administrations	8
3 The Role of the Standards Board for England	10
Relationships with other organisations	10
Central Government	10
4 Investigation and Enforcement	13
Local investigation and determination	13
Investigations	15
Determinations	17
Disclosure	18
Vexatious, malicious and frivolous complaints	20
5 Promotion, Guidance and Training	21
The Code of Conduct and promotion of the Ethical Framework	21
Training and attendance	22
Town and parish councils	22
Support for Local Standards Committees	23
6 The Code of Conduct	25
Clause 7 - the whistle-blowers' clause	26
Conclusions and recommendations	28
Formal Minutes	31
Witnesses	33
List of supplementary written evidence	34
Reports from the ODPM Committee since 2003	35

Summary

We welcome the Government's desire to codify, facilitate and enforce ethical governance and standards through the development of the Model Code of Conduct and the establishment of the Standards Board for England. Nevertheless, it remains our belief that incidents of misbehaviour or corruption with local government in England are isolated and atypical. The majority of local government members and officials unflinchingly adhere to the high standards that the Government expects and the public deserves.

The Standards Board was established in 2001 and began to receive complaints early in 2002. Although the volume of complaints received was broadly in line with expectations, many were far more complicated and required more complex investigations that had been planned. The Standards Board has been roundly criticised for the unacceptable delays in dealing with most complaints. We have identified a series of reasons for these delays but in almost every instance the cause can be attributed to the Government's failure to provide a complete legislative framework rather than failings on the part of the Board.

The Standards Board's promotion and guidance work has found more favour although there are still areas, such as communications with Parish Councillors, which would benefit from greater emphasis. Now that the Government has finally enabled local investigations and local determinations, the Standards Boards should have the flexibility to adopt a more holistic approach to its work in this area.

The Code of Conduct has provided a useful element in the ethical framework but certain provisions would benefit from amendment either in the light of operational experience or to enhance clarity and understanding. We have made a series of recommendations relating to Code which should be taken into account as part of the current review.

1 Introduction

Trust and confidence

1. The Government's 1997 election manifesto committed it to a reinvigoration of local democracy. Achieving this aim requires a high degree of public trust in local authorities, elected members and officials. The London Borough of Hackney's statement that it placed considerable importance on "a robust ethical framework in promoting public confidence and in turn in enhancing our ability to delivery high quality public services" is typical of much of the evidence we received.¹ We welcome the Government's desire to codify, facilitate and enforce ethical governance and standards through the development of the Model Code of Conduct and the establishment of the Standards Board for England. Nevertheless, it remains our belief that incidents of misbehaviour and corruption within local government in England are isolated and atypical. The majority of local government councillors and officials unflinchingly adhere to the high standards that Government expect and the public deserve.

Conduct of the inquiry

2. Our inquiry, announced in September 2004, was designed to examine

- The effectiveness of the Standards Board for England in promoting and overseeing the Code of Conduct which sets out the rules governing the behaviour of members of local authorities;
- The role of the Standards Board in ensuring compliance with the Code of Conduct and its ability to assess allegations of misconduct in a timely and fair manner;
- Relationships between the Standards Board and others; and
- The Standards Board's role in supporting the establishment and operation of standards committees at a local level.

Our terms of reference specifically and deliberately excluded examination of particular cases.

3. We took evidence from seven groups of witnesses through December 2004 and January 2005. We also received 30 memoranda from a range of commentators and interested parties. We are grateful to all those who have assisted us during the inquiry whether through the submission of evidence or by more informal means.

4. Concurrently, the Committee on Standards in Public Life has considered complementary issues as part of its inquiry, *Getting the Balance Right: Implementing Standards of Conduct in Public Life*, which was announced in January 2004. The Committee on Standards in Public Life's inquiry encompassed a broader range of principles and processes than we have addressed, including issues such as appointments and reappointments to public bodies and whether the seven principles of public life have

¹ Ev 21. See also, for example, Ev 33, HC 1118-II, Session 2003-04

been embedded into organisational culture. It published its report in January 2005 and we have benefited from the opportunity to draw on that Committee's evidence and analysis as we have considered our own conclusions.²

² Committee on Standards in Public Life, *Tenth Report, Getting the Balance Right: Implementing Standards of Conduct in Public Life*, January 2005, Cm 6407.

2 The Ethical Framework for Local Government

Development of the Ethical Framework

5. The Local Government Act 2000 introduced wide-ranging and significant reform of local government. Part III of that Act laid out a new ethical framework for local government covering around 100,000 elected members in England and some 16,000 further members in Wales. It is one of the most extensive and rigorous ethical frameworks to be applied to any group of public sector workers in the UK.

6. A National Code of Local Government Conduct was first issued in 1975, in the wake of the Poulson scandal and following on from the recommendations of the two Royal Commissions which investigated the affair. It applied equally to all part of the UK mainland. In 1990, in response to recommendations made four years earlier by the Committee of Inquiry into the Conduct of Local Authority Business, the National Code was given statutory authority and breaches became *prima facie* evidence of maladministration.³

7. In 1997, when the Committee on Standards in Public Life reviewed the operation of the National Code, it found that it had become almost unworkable – “impenetrable in parts and inconsistent in others” – and that “scarcely anyone had a good word to say” about it.⁴ The Committee made a series of recommendations designed to reinvigorate local government. The Government broadly accepted the Committee’s analysis and recommendations although the White Paper which followed in 1998, and the subsequent legislation, differed in one area significantly: whereas the Committee on Standards in Public Life had favoured a high degree of local regulation of standards of conduct, the Government proposed the establishment of a national, independent Standards Board for England to receive and investigate complaints under the new framework. It argued that:

maintaining an arms-length relationship with both central and local government is important to reinforce the message to the public that the Board will deal with any complaints in a rigorous yet impartial manner.⁵

8. Parliamentary scrutiny of the legislation resulted in some changes to the operation of the proposed Standards Board, reintroducing the concept of local involvement albeit in a more limited form than that envisaged by the Committee on Standards in Public Life: some completed investigations would be referred to local Standards Committees for determination and some complaints would be referred to local monitoring officers for

³ Report from the Committee of Inquiry into the Conduct of Local Government Business (The “Widdecombe” Committee), 1986, Cm 9797.

⁴ Committee on Standards in Public Life, Third Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 17; Committee on Standards in Public Life, Tenth Report, *Getting the Balance Right: Implementing Standards of Conduct in Public Life*, 2005, Cm 6407, p. 52.

⁵ Ev 1, HC 1118-II, Session 2003-04

investigation. The scope of the framework was also extended during the Bill's passage through Parliament, bringing town and parish councillors within its ambit.

9. The Bill received Royal Assent in July 2000 and the Standards Board for England was formally constituted in March 2001 as an autonomous public body, independent of the Crown. At the same time, to maintain the separation between investigation and adjudication of cases, the Adjudication Panel was established to consider completed investigations referred to them by Ethical Standards Officers (the Board's investigating officers). The Adjudication Panel determines whether breaches of the Code have occurred and, if so, can decide upon appropriate penalties. The Relevant Authorities (General Principles) Order 2001⁶ set out ten general principles which would underpin the Code of Conduct (closely based on the seven principles of public life promulgated by the Committee on Standards in Public Life in its 1997 report⁷). A Model Code of Conduct was drafted by the then Department of the Environment, Transport and the Regions in consultation with a range of other bodies and brought into force through a series of statutory instruments late in 2001. Local authorities were required to adopt local codes of conduct which had to include all the provisions of the Model Code. Where councils did not adopt a local code by May 2002, the Model Code applied automatically.

10. The Standards Board for England began to receive allegations of breaches of Codes of Conduct early in 2002 but at that stage, some critical parts of the regulatory framework had yet to be put in place. In particular, regulations to enable Ethical Standards Officers to refer some completed investigations to local Standards Committees for determination, and thus avoiding sending every case to the Adjudication Panel, did not come into effect until June 2003. Regulations enabling Ethical Standards Officers to refer some cases to monitoring officers for local investigation did not come into effect until November 2004 – well after we had embarked on our inquiry.⁸

11. A national code of conduct for local government officials, which was provided for in the Local Government Act 2000, has yet to be established. The Office of the Deputy Prime Minister (ODPM) issued a consultation document and a draft code in August 2004.

Devolved administrations

12. Part III of the Local Government Act 2000 applies to both England and Wales equally but in Wales it is the Welsh Assembly that is responsible for implementation. The result is that the structures used to implement the ethical framework in Wales are distinct from those in England. The Local Government Ombudsman for Wales receives and investigates complaints; the content of the Model Code of Conduct is different; there are different rules covering the establishment of local standards committees; and supporting regulations enabling referrals for determination to local standards committees came into force much earlier than in England.⁹

⁶ Relevant Authorities (General Principles) Order 2001, SI 1401.

⁷ Committee on Standards in Public Life, Third Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 17.

⁸ The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004.

⁹ The Public Services Ombudsman (Wales) Bill, which is currently under consideration in Parliament, aims to establish a single office to cover all the Ombudsmen in Wales (the Commissioner for Local Administrations in Wales, The Local Government Ombudsman, The Health Service Commission for Wales, the Welsh Administration Ombudsman and,

13. Scotland has a distinct statutory framework for ethical governance which was established under the Ethical Standards in Public Life etc (Scotland) Act, which also came into force in 2000. However, the Scottish Parliament did not approve the Councillors Code of Conduct and the Code of Conduct for Members of Devolved Public Bodies until mid 2003. The operation of the Scottish Framework is therefore very much still in its infancy.

14. There is no comparable framework in Northern Ireland.¹⁰

when established, the Social Housing Ombudsman for Wales). The Welsh Affairs Committee reported on the Bill, Third Report from the Welsh Affairs Committee, Session 2004-05, on Public Services Ombudsmen (Wales) Bill [HL], HC 234.

¹⁰ Local councillors in Northern Ireland are subject to a voluntary Code of Conduct but there are no clear processes for reporting breaches of the Code nor clear means of enforcement.

3 The Role of the Standards Board for England

15. The Standards Board for England, which is sponsored by the Office of the Deputy Prime Minister, now employs around 120 staff and has a budget of some £9 million per annum. The Model Code of Conduct, which it is tasked to promote and enforce, applies to over 100,000 members of parish councils, principal councils, fire and police authorities and seven national park authorities in England and a further 16,000 elected members in Wales.

16. The Role of the Standards Board for England is set out in Part III of the Local Government Act 2000. This Act stipulates that the Board will:

- Appoint employees known as Ethical Standards Officers to investigate allegations of breaches of the Codes of Conduct
- Issue guidance to relevant authorities on matters relating to the conduct of elected and co-opted members; and
- Issue guidance to relevant authorities on matters relating to the qualifications or experiences which monitoring officers should possess.

In fulfilling these functions the Standards Board should have “regard to the need to promote and maintain high standards of conduct” on the part of members of local authorities.¹¹ The Standards’ Board told us that its mission was to be “the respected body responsible for promoting ethical behaviour and building confidence in local democracy”.¹²

17. In practice the Board’s statutory functions can be split into two areas of activity: promoting the Code of Conduct, issuing related guidance and providing training; and its investigative and enforcement responsibilities.

Relationships with other organisations

18. The Standards Board for England is an independent body. Its Ethical Standards Officers conduct their investigations free from intervention by other organisations or individuals. However, establishing positive and constructive relationships with central Government, other regulatory bodies and stakeholders within local government is critical if the Board is to fulfil its statutory duties, meet its mission statement and command respect within local government.

Central Government

19. Parts of the relationship between the Standards Board and the Government are codified in the Local Government Act 2000 which empowers the Government to appoint the Board

¹¹ Local Government Act 2000, Part III.

¹² Ev 5, HC 1118-II, Session 2003-04

and make regulations to provide a framework for its operations in certain circumstances. These statutory arrangements are supplemented by a financial memorandum which sets out conditions attached to the Government's funding of the Board and by ad hoc meetings with Ministers and regular monthly meetings at officer level.¹³

20. Both the Standards Board and the Government appear content with their relationship. The Government told us that it "fully supports the Board and greatly values its work" and that "the Board has...developed a strong working relationship with central Government".¹⁴ Similarly, the Standards Board spoke of its "excellent relationship" with the Office of the Deputy Prime Minister.¹⁵ However, while most of the evidence we received from local authorities suggested an appreciation of a constructive relationship between the Board and central Government, several of our witnesses sounded a note of caution. The London Borough of Hackney told us that "the relationship between the Standards Board and the Office of the Deputy Prime Minister has by no means been obvious" to its local Standards Committee and that the relationship "does not appear to manifest itself in joined-up working".¹⁶ Tewkesbury Borough Council told us that the Standards Board did not always seem to be clear about the extent of its own authority and that such haziness was reflected particularly in its relationship with central Government.¹⁷

21. Birmingham City Council was one of several witnesses who told us that the Standards Board was well respected and influential within local government. It stated that "the Standards Boards for England has a high standing within local government" and that it had "played a full part in raising confidence in local government".¹⁸ We welcome the fact the Standards Board has generally been well-received within the local government environment but we are conscious that opaqueness in its relations with central Government risks undermining this position. **We recommend that the Government and the Standards Board make all aspects of their relationship readily transparent and that the basis of that relationship is promulgated widely.**

22. Practical and effective working relationships with other regulatory and representative bodies are equally important to ensure the co-ordination of policies and operations affecting the ethical framework in local government. As the Standards Board said, "establishing good, co-operative relationships between regulators is essential to that framework" and "the Board believes that such partnerships are vital to promote the principles of the Code".¹⁹ We are therefore pleased to note growing signs of co-operation between the relevant organisations such as the joint steering committee which brings the Standards Board together with the Audit Commission, the Local Government Association and the Improvement and Development Agency. A Memorandum of Understanding between the Standards Board and the Audit Commission, signed in February 2004, sets out

¹³ Ev 3, HC 1118-II, Session 2003-04

¹⁴ Ev 3-4, HC 1118-II, Session 2003-04

¹⁵ Ev 9, HC 1118-II, Session 2003-04

¹⁶ Ev 20, 23; HC 1118-II, Session 2003-04

¹⁷ Ev 28, HC 1118-II, Session 2003-04

¹⁸ Ev 18, HC 1118-II, Session 2003-04

¹⁹ Ev 9, HC 1118-II, Session 2003-04

their respective roles and responsibilities and commits both organisations to liaise on individual cases where circumstances have given rise to complaints to both bodies. The Audit Commission told us that it was "now working more closely" with the Standards Board "to support improvements on ethical governance in local government".²⁰

23. We are not, however, convinced that these co-operative structures have been translated into practical, joined-up working on the ground. Indeed, the Audit Commission conceded that although the arrangements were "working very well at a national level, and at the most senior levels the relationship between the Commission and the Board is a close relationship" both organisations "need probably to do more to ensure that there is better joint working at the local level. We have both come across instances where the degree of information-sharing at the local level has not been as great as we would hope it might be".²¹ The Memorandum of Understanding between the Standards Board and the Audit Commission is barely a year old and it may be that, as the Commission suggested, it is too early to draw definitive conclusions on its effectiveness.²² We were pleased to note that "informal comments from local authorities suggest that our more joined-up and co-ordinated approach is noticeable and welcome".²³ **We recommend that the Standards Board and the Audit Commission monitor closely the impact of their new working arrangements and be prepared to make further revisions should it become apparent that their policies or activities are or appear to be inconsistent at a local level.**

²⁰ Ev 25, HC 1118-II, Session 2003-04

²¹ Q. 133

²² Ev 26, HC 1118-II, Session 2003-04

²³ Ev 26, HC 1118-II, Session 2003-04

4 Investigation and Enforcement

Local investigation and determination

24. The ethical framework established by the Local Government Act 2000 is unusually centralised. All allegations of breaches of Codes of Conduct have to be referred to the Standards Board directly with no opportunity for filtering out minor complaints at a local level.

25. Regulations which came into force in June 2003 enabled the Standards Board to refer completed investigations to local Standards Committees in some circumstances for determination. Further Regulations, which did not come into force until November 2004, enabled referrals for investigation to local monitoring officers. These arrangements meant that the local elements of the framework—local Standards Committees and monitoring officers—were effectively excluded from involvement in the consideration of complaints regarding members within their jurisdiction when the system was established. Even now, they are excluded from involvement unless and until the case is referred down by the Standards Board for determination or investigation, thus removing primary responsibility for standards from local authorities.

26. Witnesses highlighted the consequences of such a high degree of centralisation:

- Creation of a significant, and unnecessary, additional workload for the Standards Board;
- Marginalisation of monitoring officers and local standards committees;
- Removal of the ability to resolve complaints through mediation or other informal methods;
- That trivial complaints receive more status than warranted; and
- An inability to take local information and context into account when investigating or determining upon complaints.

27. The Committee on Standards in Public Life in their report on Standards of Conduct in Local Government discussed proposals put forward to amend the framework further to allow local standards committees to receive and sift allegations of breaches of the Code of Conduct which would address many of these concerns. The Committee argued that:

such a change would enable [local] Standards Committees to use mediation or other measures...in response to complaints that may be minor, vexatious or politically or personally motivated. Some of these complaints, while not meriting the full panoply of a national (or even) local investigation, can be resolved using these more informal measures. This is a key aspect missing from the current centralised system.²⁴

28. There are, however, strong arguments in favour of retaining some of the centralising features of the ethical framework as it operates at present. These were encapsulated by

²⁴ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 58.

Stephen Bundred, Chief Executive of the Audit Commission, who, while acknowledging that there were "powerful arguments both for and against" local filtering, said that:

one of the purposes of the Standards Board is to ensure public confidence in standards in local government, and the independent assessment at first instance is one of the elements that provides that public confidence. It is also true that there would no doubt be some degree of inconsistency if there were local filtering, and there is no doubt therefore a risk that initial local filtering could make it more difficult to deal with certain types of allegations.²⁵

Rather than being a unique weakness of the current system, we believe that central initial assessment of complaints by experienced officers applying a consistent set of criteria is one of its unique strengths.

29. Much of the criticism that has been levelled at the highly centralised nature of the ethical framework can be attributed to the delay in implementing the Regulations to enable the Standards Board to refer cases to monitoring officers and local standards committees for investigation and determination. The Office of the Deputy Prime Minister acknowledged:

concerns raised by some about the time taken to bring forward the necessary secondary legislation to implement local decision-making". It explained that "this has been a consequence of both extensive public consultation and the difficult issues this has raised, some of which have necessitated further primary legislation.²⁶

30. One of the most critical issues raised in the consultation was a potential conflict of interest between the proposed investigative role for monitoring officers and their established role as the usual source of advice for members regarding their obligations and duties under the Code of Conduct. This issue was resolved in the Local Government Act 2003 which, by amending the Local Government Act 2000, enabled monitoring officers to nominate another to conduct investigations where a conflict of interest might arise. A further round of consultation was initiated once the Local Government Act 2003 had come into force on proposals to make provision for monitoring officers to undertake investigations when cases were referred to them by Ethical Standards Officers. Consideration of responses to that consultation resulted in further Regulations coming into force in November 2004 to allow cases to be referred for local investigation.

31. We appreciate the Government's desire to consult widely on issues relating to revision of the ethical framework. It is not the fact of consultation that we question, but the timing. Parliament had already recognised, during the passage of the Local Government Bill in 2000, that it would be appropriate for less serious allegations to be investigated and determined locally. It therefore appears inexplicable that the first round of consultation did not commence until May 2002 and that it took until November 2004 for the final set of enabling Regulations to come into force—some four years after the passing of the Act which established the ethical framework. In the meantime, the consequences of over-centralisation have jeopardised confidence in the framework, exposed the Standards Board

²⁵ Q 145

²⁶ Ev 2, HC 1118-II, Session 2003-04

to an unnecessary volume of work and undermined its efforts to embed the ethical framework in local government culture. **It is regrettable that the Government allowed a four year delay between the introduction of the new ethical framework for local government and the completion of the statutory measures required to make it work effectively. It was unreasonable to expect the Standards Board to function well within an incomplete statutory framework and without the necessary resources and powers.**

Investigations

32. The Standards Board received 2,984 complaints in the financial year 2002-03 (its first year of operation) and a further 3,555 in 2003-04. Expectations that the volume of complaints would decline over time do not appear to have been realised. The Standards Board told us that it currently receives some 300 new complaints each month.²⁷

33. The Standards Board expects to refer 30 per cent of the complaints it receives for investigation either by its Ethical Standards Officers or, under the November 2004 regulations, by local monitoring officers. In 2002-03, 45 per cent of complaints were referred by the Standards Board to its Ethical Standards Officers for investigation. This proportion was reduced in 2003-04 to 34 per cent and is currently running at around 28 per cent.

34. The Board's target is to decide whether a complaint should be referred for investigation within ten days. In the early days of the Board's existence the average time taken was considerably longer. We heard of instances where it had taken up to six months for complaints even to be acknowledged. In those cases which were referred for investigations, too often the delays became even more protracted. The Board aims to complete investigations within six months but research commissioned by the Committee on Standards in Public Life suggests that in 2003 the average time taken from the receipt of a complaint to the completion of any related investigation was eight and a half months.²⁸ Our evidence is littered with examples where investigations took well over a year.²⁹

35. The most often repeated criticism of the Standards Board made in our evidence relates to the length of time between the receipt of a complaint and the completion of any resulting investigation. These delays can have significant detrimental impacts. As Mr Gordon Musset, Town Clerk at Haverill Town Council, told us "for those ultimately found guilty, this gives them too long to continue in breach of the Code. For the innocent, it can be stressful time".³⁰ It can also have an unwarranted detrimental impact on the reputation of Councillors and potentially on their chances of re-election. The City of Durham Standards Committee was not alone in arguing that "long delays in dealing with complaints can lead to injustice, or at least unfairness".³¹ Northamptonshire County Council, South Ribble Borough Council, Wyre Borough Council and Tewkesbury Borough Council, among others, made similar arguments.³² Moreover, as the Association of

²⁷ Ev 7, HC 1118-II, Session 2003-04

²⁸ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 68.

²⁹ Ev 14, HC 1118-II, Session 2003-04

³⁰ Ev 17, HC 1118-II, Session 2003-04

³¹ Ev 13, HC 1118-II, Session 2003-04

³² Ev 26, 27, 28; HC 1118-II, Session 2003-04

Council Secretaries and Solicitors pointed out, inordinate delays undermine the professional standing and influence of the Standards Board and its officers and do not serve "to build trust or confidence" in the ethical framework—the very thing that the Standards Board is tasked to do.³³

36. The Standards Board told us that:

the delay in introducing regulations for handling cases at a local level meant that the Board initially had to deal with all investigations against members with insufficient resources to meet demand. Ethical Standards Officers were overloaded with cases and inundated with less significant complaints without the power to refer matters locally.³⁴

The Board also experienced difficulties in recruiting and retaining appropriate staff at the salaries it was able to offer.³⁵ Indeed, it did not reach a full complement of staff until July 2004. Sir Anthony Holland, Chairman of the Standards Board, also pointed to the diligence required at the outset to ensure that the Board's procedures and processes were scrupulously fair which, without any comparable system to learn from, meant that early investigations were more time-consuming.³⁶

37. Some witnesses suggested that the Standards Board had underestimated the volume of complaints that it would receive and that it was therefore unprepared. This does not seem to have been the case. Indeed, the volume of complaints received was only slightly above the level provided for in the Board's business plan. What did take the Board by surprise was the nature of those complaints. Half of all the complaints received by the Standards Board in 2003-4, and 55 per cent of its investigations, related to parish councillors.³⁷ (In contrast, parish council spending as a proportion of all local government spending is only a fraction of one per cent.) As Sir Anthony explained:

the volume of complaints was what we expected, or very nearly, but the kind of complaint meant that the investigations process was far more complex than anticipated...when you get complaints from parish councils they are nothing like as easy to investigate as they are if they come from county councils, which have resources available to individual councillors. Parish council investigations can be quite tricky and quite personalised.³⁸

38. The Standards Board have put in place a number of measures designed to speed up its processes and to tackle the backlog of cases which at one point was as high as 400. Provisions of the Local Government Act 2003 enabled the Board to delegate decisions on whether to refer complaints for investigation. It has, therefore, been able to establish a Referrals Unit which now assesses complaints against a defined set of criteria. As a result the average time taken to decide whether an investigation is appropriate is down to eleven

³³ Ev 29-30, HC 1118-II, Session 2003-04

³⁴ Ev 7, HC 1118-II, Session 2003-04

³⁵ Q 161

³⁶ Q 161

³⁷ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 56.

³⁸ Q 161

and a half days. Additional funding of some £900,000 from the ODPM has, among other things, enabled the Board to create a special team to tackle the backlog of cases. The Standards Board told us in November 2004 that 25 per cent of the backlog had already been cleared and that it expected to clear the rest of the backlog by March 2005.³⁹ Sir Anthony Holland, when he appeared before us in January 2005, confirmed that the Board was still on course to meet this target.⁴⁰ A new, more streamlined, case-handling system appeared to be working well. The Standards Board also told us that the criteria it used to determine whether a case should be referred for investigation had been strengthened "to discourage trivial, malicious or tit for tat complaints, and reject allegations made solely for political point scoring" and pointed to a reduction in the proportion of cases referred and a decline in the proportion of member-on-member complaints and complaints relating to parish councils as evidence of the impact of these revisions.⁴¹ Additional staff have been recruited and the Board has drawn upon external legal assistance.⁴²

39. Early indications are that these measures are having the desired effect. Over 40 per cent of cases are now completed with the six month target time-frame, compared to 38 per cent in 2003-04.⁴³ Many of our witnesses acknowledged recent improvements. Birmingham City Council, for instance, told us that "all evidence appears to suggest that the delay factor is now reducing".⁴⁴ **We congratulate the Standards Board on the progress that has been made in reducing the average time taken between the receipt of a complaint and the completion of any associated investigation.**

40. There is, however, still more to be done in this regard. The Standards Board remains some way from its target of completing 40 per cent on investigations within four months and a further 50 per cent within six months. Although it is too early to judge the impact of the s66 regulations permitting the Board to refer cases to local monitoring officers for investigations, they should mean that the Board is freer to focus more of its resources on the more serious cases which have the greatest potential to undermine local democracy. **We recommend that the impact of the s66 Regulations on the time taken to complete investigations is monitored closely. If the Standards Board does not meet its target of completing within six months 90 per cent of its investigations by the end of the 2005-06 financial year, further measures to improve efficiency will be required. Continuing inordinate delays are counter-productive and unacceptable.**

Determinations

41. The Adjudication Panel was established under the Local Government Act 2000 as an integral but independent part of the ethical framework. Once an investigation has been completed and the Ethical Standards Officer has concluded that a breach of the Code has taken place, the ESO decides whether or not to refer it for determination. Until the June 2003 Regulations permitting referral to local Standards Committees for determination, all

³⁹ Ev 8, HC 1118-II, Session 2003-04

⁴⁰ Q 162

⁴¹ Q. 147; Ev 7, HC 1118-II, Session 2003-04

⁴² Ev 8, HC 1118-II, Session 2003-04

⁴³ Ev 7, 12; HC 1118-II, Session 2003-04

⁴⁴ Ev 18, HC 1118-II, Session 2003-04; *See also, for example, Q. 27-9; Q.143-4.*

cases where determination was considered appropriate were referred to the Adjudication Panel. It has the power to impose a range of sanctions on those held to be in breach of the Code, including suspension or disqualification from office for a period of up to five years.

42. The Adjudication Panel heard its first case in January 2003. Between that date and October 2004 it heard a total of 189 cases. In 182 of those cases it imposed a penalty, including 154 penalties of disqualification for a period of a year or more. The first determination to be made by a local Standards Committee occurred on 1st September 2003. Sixty-eight cases had been determined by local Standards Committees by the end of August 2004 and in 91 per cent of those, the local Standards Committee concerned agreed that the breach of the Code had taken place.

43. These figures display a strong degree of confidence in the findings of ESOs on the part of the Adjudication Panel and local Standards Committees. They also re-inforce our belief that serious misconduct among the 100,000 or so members of local government in England is rare. However, the fact that only 20 per cent of cases are investigated and that only 7 per cent reach the stage of determination lends weight to the arguments of those who believe that there is still too high a degree of centralisation in the ethical standards framework. **We welcome the June 2003 regulations enabling some cases to be referred to local standards committees for determination.**

Disclosure

44. Our terms of reference did not specifically invite comments on the conduct of investigations by the Standards Board but it is clear from the number of our witnesses who chose to bring it to our attention that the issue of disclosure of names of those involved in complaints and investigations, and the timing of such disclosure, is a matter of concern to many.

45. One specific area of concern is the time at which a member should be informed that a complaint has been raised against them. At present the Board's practice is to inform the member concerned that a complaint has been raised against them after initial assessment has taken place (that is, only after a decision has been made on whether or not to refer the complaint for investigation or not). The Minister was content with this situation provided that first, the initial screening procedures were relatively quick and, secondly, that the member complained against was provided with a clear statement of the outcome of that initial assessment.⁴⁵ Other witnesses drew attention to the attraction of a system which did not cause members undue anxiety by informing them of a complaint raised against them for it to be dismissed only days later.⁴⁶ We note that this practice is in line with other national codes of conduct, such as that covering members of the Bar.⁴⁷ Others witnesses argued that not disclosing the existence of a complaint to the member concerned at the earliest opportunity flew in the face of natural justice.⁴⁸

⁴⁵ Q 257

⁴⁶ QQ 17-19

⁴⁷ Q 19

⁴⁸ Q 99

46. It is important that monitoring officers are informed as quickly as possible when a complaint has been raised against one of their members. As Ms Lloyd Jones, Director of Legal and Democratic Services at the London Borough of Hackney, told us

there may well be action which the authority needs to take which is not just to do with the investigation of the complaint. It may be, for example, that in a case of breach of confidentiality or misuse of resources...there is administrative action which the monitoring officer, in compliance with our duties to uphold legal principles...would need to take some steps on, which would not interfere with the legitimate investigation of the complaint”.⁴⁹

We believe that it would be deeply unfair for monitoring officers to be made aware of the existence of a complaint before the member complained against knew of it. As Professor Chapman, Chairman of Durham City Council Standards Committee argued, “it is better for people to know they are being criticised than for them not to know when everyone else does”.⁵⁰

47. We recommend that members against whom a complaint has been made be informed of the complaint by the Standards Board as soon as it is received and that the relevant monitoring officer be made aware of the complaint at the same time.

48. Our attention was also drawn to the different ways in which a member complained against and the person raising the complaint were treated by the Standards Board. While the Board makes public, through its website and other means, the names of those against whom a complaint has been made, the names of those making complaints are never divulged. Leeds City Council, among others, raised similar concerns: “complainants should be prepared to stand by their complaints, particularly members accusing fellow members of the case of persistent complainers”.⁵¹

49. We are not unsympathetic to these arguments but are conscious of the potential negative consequences that revealing the names of complainants might have. As the Audit Commission argued, “giving publicity to complainants might well deter complainants from bringing legitimate concerns to attention”.⁵² Moreover, the Standards Board has a duty to protect whistle-blowers. Their ability to do so would be compromised by a duty to reveal the names of complainants. **We do not support the proposal that the names of the complainants should be made public.**

50. The related issues of whether, and if so for how long, the name of a member complained against should appear on the Standards Board website was also commented upon by our witnesses. At present the name of a member complained against remains on the Standards Board website for two years, even if they have been exonerated. The Standards Board itself are not content with the current situation.⁵³ **We welcome the Standards Board’s commitment to review practice on the publication of case details on**

⁴⁹ Q 19

⁵⁰ Q 69

⁵¹ Ev 34, HC 1118-II, Session 2003-04

⁵² Q 153

⁵³ Q 179

its website during 2005 and recommend a reduction in the duration of time for which the names of those exonerated remain on the Standards Board's website.

Vexatious, malicious and frivolous complaints

51. It has been suggested that a significant proportion of the complaints made about parish councillors are trivial, vexatious or politically or personally motivated.⁵⁴ This has led some to propose that parish councils should be excluded from the ambit of the ethical framework or that it should apply only to those parish councils which reach a financial or other sort of threshold. The Committee on Standards in Public Life were not persuaded by this argument.⁵⁵ Neither are we. Parish councils are an important element of local democracy, in some cases with significant spending and all are statutory consultees in the planning process. We believe that the same standards of conduct should apply to all local representatives irrespective of their level of responsibility. **We support the recommendation of the Committee on Standards in Public Life that all parish councils remain within the ambit of the ethical framework for local government.**

52. Nevertheless, **we strongly condemn the activities of those who knowingly make vexatious, malicious or frivolous complaints.**

53. There is a strong temptation to impose penalties on those responsible, and for treating their activities as a breach of the Code of Conduct. Vexatious, malicious and frivolous complaints are unethical, wasteful and can result in significant personal distress for their subject. **However, we do not believe that that the imposition of penalties on those making malicious complaints would be beneficial in the long term. The additional burden it would impose on the Standards Boards and its Ethical Standards Officers could not be justified and we are conscious that taking such approach may act as a disincentive to those with legitimate complaints to raise.**

⁵⁴ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 57.

⁵⁵ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 57.

5 Promotion, Guidance and Training

The Code of Conduct and promotion of the Ethical Framework

54. The Standards Board for England has a statutory duty, under Part III of the Local Government Act 2000, to issue guidance relating to the Code of Conduct and to promote high ethical standards throughout local government. The Minister told us that "disseminating good practice...encouraging training, helping local authorities themselves develop appropriate training and development programmes" were considered crucial aspects of the Board's work.⁵⁶

55. Since its establishment the Board has undertaken a number of activities designed to promote awareness of and compliance with the Code of Conduct and to reinforce ethical governance within local authorities. These activities have included a country-wide programme of presentations, issuing documents and guidance relating to the Code, contributing to training and development events, development of electronic resources through its website and organising annual assemblies for members of local standards committees.⁵⁷ The Standards Board told us that it was "committed to providing consistent, relevant and timely advice on the Code".⁵⁸

56. Most of our witnesses agreed that the Board had performed well in this regard since its inception. Gordon Musset, Haverill Town Clerk, told us that the Board had been "very effective in its promotion of the Code of Conduct, with ample supplies of videos, brochures and leaflets".⁵⁹ Many other local authorities agreed.⁶⁰ The ODPM said that "the Board's work, including the guidance it issues to local authorities, is helping to ensure that ethical issues are seen to be taken seriously" and that "we believe that through this work the Standards Board has succeeded in establishing itself as a strong force for promoting greater confidence in local democracy".⁶¹ The Standards Board itself stated that it had "used the Code as a regulatory tool that can be administered in a flexible and pragmatic way to promote member adherence to high standards of conduct".⁶² Such anecdotal evidence is supported by research undertaken by MORI in 2003, commissioned by the Standards Board, which found that the Board's guidance was often cited as one of the positive aspects of its work. Some 69 per cent of respondents felt that the Board had been successful in keeping them informed and that it had defined the standards expected of members well.⁶³

57. It is worth noting, however, that a significant minority of our witnesses disagreed, citing particular concerns over the timeliness of advice and guidance provided by the Standards Board. The London Borough of Hackney told us that "the Standards Board's capacity to provide timely and guidance has been a matter of concern from the outset",

⁵⁶ Q 222

⁵⁷ Ev 5, HC 1118-II, Session 2003-04

⁵⁸ Ev 5, HC 1118-II, Session 2003-04

⁵⁹ Ev 16, HC 1118-II, Session 2003-04

⁶⁰ Ev 13, 18, 27, 28; HC 1118-II, Session 2003-04

⁶¹ Ev 2, HC 1118-II, Session 2003-04

⁶² Ev 5, HC 1118-II, Session 2003-04

⁶³ Ev 6, HC 1118-II, Session 2003-04

that the Standards Board’s ability to lead in promoting the Code had been undermined by the burden of work resulting from a reluctance on the part of parish councillors in particular to accept the Code of Conduct and that “this pattern of delay in the production of advice and guidance has been repeated thereafter”.⁶⁴ There were also concerns that guidance was not always disseminated as widely as required.⁶⁵ **The Standards Board acknowledged a growing demand for its training and guidance materials. We welcome the Standards Board’s assurances that further resources would be deployed to respond to this demand and recommend that in doing so that it pay particular attention to producing advice and guidance in a timely and accessible fashion.**

Training and attendance

58. The Standards Board has facilitated training events on the model Code for members of local government however, as Mr Musset pointed out, many councillors “are unwilling to attend training (on any subject)”. We appreciate the sensitivities which this particular issue raised. While we are keen to encourage members of local government to exploit the opportunities that such events offer to assist them in their role as leaders of local democracy, to recommend a move to mandatory training seems to us a disproportionate response. Elected politicians are ultimately accountable to the electorate through the ballot box, not to bureaucrats or a set of rules devised by central Government. We agree with the Minister’s view that it is “difficult to see how you can put in place very prescriptive obligations without creating a potential risk that someone is called to account other than by the electorate”.⁶⁶ **We advocate an approach whereby training on the Code of Conduct and ethical governance for newly elected members becomes embedded within the culture of local government organisations.**

59. **We recommend that the Standards Board include monitoring levels of attendance for training as part of its annual programme of research and the Audit Commission take account of attendance levels as part of the Comprehensive Performance Assessment.**

Town and parish councils

60. Communicating with smaller local government bodies, typically town and parish councils, presents particular challenges for the Standards Board. Town and parish councils are the least well-equipped to absorb the information and communications put out by the Board and at times dissemination of information across a particular council can take weeks.

61. The Standards Board has recognised the particular challenges of working with parish councils. Sir Anthony Holland told us that he thought this was one of the Board’s greatest challenges.⁶⁷ Additional measures have been taken to try to reach this audience, including the production of a quarterly parish newsletter to assist parish councillors to comply with

⁶⁴ Ev 22, 31; HC 1118-II, Session 2003-04

⁶⁵ Ev 17, HC 1118-II, Session 2003-04

⁶⁶ Q. 223

⁶⁷ Q 176

the Code of Conduct. The Board told us that it was “working with these authorities to identify ways of ensuring quicker and easier access to relevant information” and that it was also “examining with local government representative bodies and the ODPM ways to build capacity to promote ethical standards in dysfunctional parish councils”.⁶⁸ Sir Anthony Holland added that the Board puts “an awful lot of effort into the Parish Council problem...every publication we produce is sent to every parish council in the country, all 8,900”.⁶⁹ The Board has also worked closely with the National Association and County Associations of parish councils, but these organisations do not cover every parish council.

62. Town and parish councils were brought within the ambit of the ethical framework for local government as the Local Government Bill made its way through Parliament. At that time, there was considerable opposition to this extension, and particularly to the provisions of the model Code of Conduct on declaration of interests being applied to parish councillors. The Committee on Standards in Public Life noted that:

there is undoubtedly some evidence of individual parish councillors either stepping down or not seeking re-election in protest at the requirement to register interests.⁷⁰

63. A survey conducted by CIPFA commissioned for the Committee on Standards in Public Life suggests that opposition to the requirement to declare interests had far less impact on willingness to serve on parish councils than had been predicted. Even so, the high volume of allegations of breaches of the Code on the part of parish councillors and the high proportion of those which appear to be vexatious or trivial, suggest that the Board needs to be more effective in promoting compliance with the Code and understanding of the ethical framework within parish councils. **We recommend that the Board concentrate further resources on communications with and promotion of compliance with the Code of Conduct to parish councils. In this regard we welcome that Board’s undertaking to consider delivering training directly at a local level and would urge it to do so quickly.**

Support for Local Standards Committees

64. The Standards Board told us that it had:

actively supported the development of standards committees through the sharing of best practice and provision of guidance, encouraging standards committees to take a more pro-active role to augment their statutory functions.⁷¹

65. Local authorities have welcomed in particular the Annual Conference for standards committees members organised by the Standards Board.⁷² Feedback from the 2004 Annual Conference revealed that 98 per cent of attendees were satisfied with the event overall.⁷³ (We note that several of our witnesses had been deterred from attending on the grounds of

⁶⁸ Ev 5, HC 1118-II, Session 2003-04

⁶⁹ Q 175

⁷⁰ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 56.

⁷¹ Ev 10, HC 1118-II, Session 2003-04

⁷² See, for example, Ev 19, HC 1118-II, Session 2003-04

⁷³ Ev 10, HC 1118-II, Session 2003-04

cost.) Nevertheless, some witnesses were critical of the Standards Board performance in this area. Tewkesbury Borough Council, for instance, told us that:

a major weakness of the Standards Board's performance is the quality of its support for Standards Committees, particularly the lack of firm and coherent guidance about the activities in which these committees should or should not be engaged.⁷⁴

It was argued that this had led to the emergence of diverse practices across the country and that it had led to "confusion and uncertainty resulting in an incoherent approach to the whole concept".⁷⁵

66. Given the absence of involvement of local standards committees in the processes of complaint, investigation and determination, as a result the Government's failure to bring forward the appropriate regulations in a timely manner, and the large number of cases which the Standards Board had to manage as a result in its early days, it is understandable that the provision of support for local standards committees has not been a high priority. Now that local standards committees have been empowered to make determinations, the Standards Board will wish to step up its activities in this area.

⁷⁴ Ev 28, HC 1118-II, Session 2003-04

⁷⁵ Ev 28, HC 1118-II, Session 2003-04

6 The Code of Conduct

67. The Code of Conduct is founded on ten general principles of ethical behaviour in public life which are set out in the Relevant Authorities (General Principles) Order 2001. The general principles underpin the Code the Conduct and its interpretation. However, while the Local Government Act 2000 required the Code of Conduct to be consistent with the general principles, it does not at present incorporate them. They are:

- Selflessness
- Honesty and integrity
- Objectivity
- Accountability
- Openness
- Personal judgement
- Respect for others
- Duty to uphold the law
- Stewardship, and
- Leadership.

68. Our evidence reveals broad support for the Code of Conduct both in principle and practice. Similarly, MORI research shows that some 85 per cent of members of principal authorities support the existence of a Code of Conduct.⁷⁶ There are however significant concerns about ambiguities and a lack of clarity leading to difficulties in interpretation.⁷⁷ The Standards Board's plans to devote a greater proportion of its resources to the provision of guidance and training (see para 57) will help to embed a greater understanding of the Code within local Government but we are concerned that the Code should be as transparent and readily understandable as possible. The Standards Board launched a review of the Code of Conduct in February 2005, at the request of the Office of the Deputy Prime Minister. This review will provide the opportunity to ensure greater clarity in the Code and to make amendments in the light of experience. **We recommend that the general principles of standards of conduct in public life, as set out in the Relevant Authorities (General Principles) Order 2001, should be incorporated into the Code of Conduct as this would provide greater context for the Code itself and assist in interpretation.**

⁷⁶ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 76.

⁷⁷ Ev 27, HC 1118-II, Session 2003-04

Clause 7 - the whistle-blowers' clause

69. While our terms of reference did not explicitly invite comments on the Code of Conduct itself, many of our witnesses raised concerns about specific provisions of the Code and the ways in which they affected the work of the Standards Board. Clause 7—popularly termed the whistle-blowers' clause—has been a matter of particular concern. Clause 7 of the Code of Conduct states that

A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's Code of Conduct, make a written allegation to that effect to the Standards Board for England as soon as is practicable for him to do so.

70. The Local Government Association argued that this provision tends to "lead to more vicious and vexatious" complaints.⁷⁸ Durham Standards Committee agreed, stating that the clause "stimulates people or gives them an excuse" to make allegations that otherwise might not be reported to the Board.⁷⁹ Other witnesses believed that the clause was not only unclear in practice but also too prescriptive in intent, and in some instances argued for amendment and in others, deletion from the Code.⁸⁰

71. We have already discussed the difficulties encountered by the Standards Board, particularly in its early days, as a result of the volume of trivial, vexatious and malicious complaints. We are not convinced, however, that removal of Clause 7 from the Code of Conduct would provide any significant relief. The primary cause of the problem was the Government's failure to put in place regulations to enable local investigation in a timely fashion, not the duty placed upon councillors to report suspected breaches of the Code. Moreover, as the Minister argued, "people who want to make vexatious or malicious complaints will do so, and do so in any context".⁸¹

72. The purpose of Clause 7, as the Audit Commission explained, is to "give confidence to members of the public that wrongdoing will not be covered up".⁸² There is a risk that removing the Clause completely would send exactly the opposite message both to members of local authorities and to the public and thus serve to undermine the primary aim of both the Code and the Standards Board to promote confidence in the ethical framework in local government. **We agree with the Committee on Standards in Public Life in their statement that "the principle that the Code should support an organisational culture that encourages the reporting of wrong-doing by others is at the heart of ensuring high standards in public life".**⁸³

73. The Code of Conduct could, nevertheless, be clearer on the dichotomy between discouraging a culture of collision and placing inordinate pressure on elected members who may feel compelled to make complaints unnecessarily. **There should be scope within**

⁷⁸ Q 113

⁷⁹ Q. 51

⁸⁰ Ev 13, 27, 29; HC 1118-II, Session 2003-04; QQ 51-7, 113

⁸¹ QQ 245-6

⁸² Q 150

⁸³ Committee on Standards in Public Life, Tenth Report, *Standards of Conduct in Local Government*, 1997, Cm 3702, p. 76.

Clause 7 of the Code of Conduct for members to exercise judgement in distinguishing between rumours and well-founded suspicions. The Code, and any guidance produced on interpretation, should reflect this.

74. Even though we have rejected the suggestion that Clause 7 should be removed from the Code, it is relevant to examine other ways in which the Code might be amended to discourage vexatious and malicious complaints. We have considered the possibility, suggested by some witnesses, that raising vexatious, malicious or personally or politically motivated complaints become a breach of the Code. However, we agree with the Standards Board that such a change could

only impact on those covered by the Code - members. The further provision would not serve as a warning or corrective to members of the public against making false or politically motivated complaints. Unwittingly, the provision could also act as a deterrent for members making complaints where they do have legitimate concerns in case subsequent investigation of the complaint finds the member's concerns to be unfounded.⁸⁴

Moreover, where a member is considered to have brought their authority into disrepute by knowingly making false complaints, this could be dealt with under other provisions within the Code of Conduct as currently drafted. **We do not support the proposal that knowingly raising false allegations should be a specific breach of the Code of Conduct.**

75. It has also been suggested that Clause 7 might be amended to reduce its scope so that the duty to report potential breaches of the Code extends only to activities in members' public lives. This may alleviate the concerns of some members who feel that the current wording of the Code places an "onerous and inappropriate duty on members" to report potential breaches arising out of other members' private lives.⁸⁵ The Standards Board pointed out that this would not prevent complaints arising out of members' private lives as these would still be possible under provisions relating to disrepute but it would remove the obligation to do so. **We recommend that Clause 7 be amended to reduce its scope to include only complaints arising from members' activities in public life.**

⁸⁴ The Standards Board for England, *A Code for the Future: A Consultation Paper on the Review of the Code of Conduct for members*, February 2005, para 4.5.12.

⁸⁵ The Standards Board for England, *A Code for the Future: A Consultation Paper on the Review of the Code of Conduct for members*, February 2005, para 4.5.7.

Conclusions and recommendations

The Role of the Standards Board for England

1. We recommend that the Government and the Standards Board make all aspects of their relationship readily transparent and that the basis of that relationship is promulgated widely. (Paragraph 21)
2. We recommend that the Standards Board and the Audit Commission monitor closely the impact of their new working arrangements and be prepared to make further revisions should it become apparent that their policies or activities are or appear to be inconsistent at a local level. (Paragraph 23)

Investigation and Enforcement

3. Rather than being a unique weakness of the current system, we believe that central initial assessment of complaints by experienced officers applying a consistent set of criteria is one of its unique strengths. (Paragraph 28)
4. It is regrettable that the Government allowed a four year delay between the introduction of the new ethical framework for local government and the completion of the statutory measures required to make it work effectively. It was unreasonable to expect the Standards Board to function well within an incomplete statutory framework and without the necessary resources and powers. (Paragraph 31)
5. We congratulate the Standards Board on the progress that has been made in reducing the average time taken between the receipt of a complaint and the completion of any associated investigation. (Paragraph 39)
6. We recommend that the impact of the s66 Regulations on the time taken to complete investigations is monitored closely. If the Standards Board does not meet its target of completing within six months 90 per cent of its investigations by the end of the 2005-06 financial year, further measures to improve efficiency will be required. Continuing inordinate delays are counter-productive and unacceptable. (Paragraph 40)
7. We welcome the June 2003 regulations enabling some cases to be referred to local standards committees for determination. (Paragraph 43)
8. We recommend that members against whom a complaint has been made be informed of the complaint by the Standards Board as soon as it is received and that the relevant monitoring officer be made aware of the complaint at the same time. (Paragraph 47)
9. We do not support the proposal that the names of the complainants should be made public. (Paragraph 49)
10. We welcome the Standards Board's commitment to review practice on the publication of case details on its website during 2005 and recommend a reduction in

the duration of time for which the names of those exonerated remain on the Standards Board's website. (Paragraph 50)

11. We support the recommendation of the Committee on Standards in Public Life that all parish councils remain within the ambit of the ethical framework for local government. (Paragraph 51)
12. We strongly condemn the activities of those who knowingly make vexatious, malicious or frivolous complaints. (Paragraph 52)
13. We do not believe that the imposition of penalties on those making malicious complaints would be beneficial in the long term. The additional burden it would impose on the Standards Boards and its Ethical Standards Officers could not be justified and we are conscious that taking such approach may act as a disincentive to those with legitimate complaints to raise. (Paragraph 53)

Promotion, Guidance and Training

14. The Standards Board acknowledged a growing demand for its training and guidance materials. We welcome the Standards Board's assurances that further resources would be deployed to respond to this demand and recommend that in doing so that it pay particular attention to producing advice and guidance in a timely and accessible fashion. (Paragraph 57)
15. We advocate an approach whereby training on the Code of Conduct and ethical governance for newly elected members becomes embedded within the culture of local government organisations. (Paragraph 58)
16. We recommend that the Standards Board include monitoring levels of attendance for training as part of its annual programme of research and the Audit Commission take account of attendance levels as part of the Comprehensive Performance Assessment. (Paragraph 59)
17. We recommend that the Board concentrate further resources on communications with and promotion of compliance with the Code of Conduct to parish councils. In this regard we welcome that Board's undertaking to consider delivering training directly at a local level and would urge it to do so quickly. (Paragraph 63)

The Code of Conduct

18. We recommend that the general principles of standards of conduct in public life, as set out in the Relevant Authorities (General Principles) Order 2001, should be incorporated into the Code of Conduct as this would provide greater context for the Code itself and assist in interpretation. (Paragraph 68)
19. We agree with the Committee on Standards in Public Life in their statement that "the principle that the Code should support an organisational culture that encourages the reporting of wrong-doing by others is at the heart of ensuring high standards in public life". (Paragraph 72)

20. There should be scope within Clause 7 of the Code of Conduct for members to exercise judgement in distinguishing between rumours and well-founded suspicions. The Code, and any guidance produced on interpretation, should reflect this. (Paragraph 73)
21. We do not support the proposal that knowingly raising false allegations should be a specific breach of the Code of Conduct. (Paragraph 74)
22. We recommend that Clause 7 be amended to reduce its scope to include only complaints arising from members' activities in public life. (Paragraph 75)

Formal minutes

Urban Affairs Sub-committee

Tuesday 22 March 2005

Members present:

Chris Mole, in the Chair

Andrew Bennett

Mr Bill O'Brien

Mr Clive Betts

Mr Adrian Sanders

Mr David Clelland

The Sub-committee deliberated.

Draft Report (*The Role and Effectiveness of the Standards Board for England*), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 75 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Second Report of the Sub-committee to the Committee.
— (*The Chairman.*)

Ordered, That the Chairman do make the Report to the Committee.

[The Sub-committee adjourned.]

Formal Minutes

Tuesday 22 March 2005

Members present:

Andrew Bennett, in the Chair

Mr Clive Betts

Mr Bill O'Brien

Mr David Clelland

Mr Adrian Sanders

Chris Mole

The Committee deliberated.

Draft Report from the Urban Affairs Sub-committee (*The Role and Effectiveness of the Standards Board for England*), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 75 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No.134 (Select Committees(reports)) be applied to the Report.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[Adjourned till Tuesday 5 April at Nine o'clock.]

Witnesses

Monday 6 December 2004	<i>Page</i>
Ms Claer Lloyd-Jones , Director of Legal and Democratic Services, London Borough of Hackney	Ev 1
Mr Gordon Mussett , Town Clerk, Haverhill Town Council	Ev 1
Mr Mirza Ahmad , Chief Legal Officer, Birmingham City Council	Ev 1
Councillor Jim Breakell , Chairman, South Ribble Borough Council Standards Committee	Ev 7
Professor Richard Chapman , Chairman, City of Durham Standards Committee	Ev 7
Mr Denis Wilson , Chairman, Northamptonshire County Council Standards Committee	Ev 7
Mr Tim Ricketts , Head of Legal Services, National Association for Local Councils	Ev 11
Ms Gifty Edila , President, Association of Council Secretaries and Solicitors	Ev 11
Sir Jeremy Beecham , Vice Chairman, Ms Chloe Lambert , Deputy Chairman, and Mr Roy Williams , Head of Member Services, Local Government Association	Ev 15
Monday 17 January 2005	
Mr Steve Bundred , Chief Executive, Audit Commission	Ev 18
Sir Anthony Holland , Chairman, Mr David Prince , Chief Executive (and Accounting Office), and Mr Paul Hoey , Head of Policy and Guidance, Standards Board for England	Ev 21
Rt Hon Nick Raynsford , a Member of the House, Minister for Local and Regional Government and Fire, and Mr Paul Rowsell , Divisional Manager, Democracy and Local Government, Office of the Deputy Prime Minister	Ev 28

List of supplementary written evidence

Memoranda STA 01 to STA 28 were published as *The Role and Effectiveness of the Standards Board for England: Written Evidence*, HC 1118-II, Session 2003-04

D.M. Webster, Shirebrook Town Council (STA 29)	Ev 35
Herefordshire Town Council (STA 30)	Ev 36

Reports from the ODPM Committee since 2003

The following reports have been produced by the Committee since 2003. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2004-05

First Report	The Draft Regional Assemblies Bill	HC 62-1 (<i>HC 459</i>)
Second Report	Annual Report to the Liaison Committee	HC 149
Third Report	Homelessness	HC 61-1 (<i>CM 6490</i>)
Fourth Report	ODPM Annual Report and Accounts 2004	HC 58
Fifth Report	The Role and Effectiveness of CABE	HC 59
Sixth Report	Electoral Registration	HC 243-1
	(Joint inquiry with the Constitutional Affairs Committee, First Joint Report of Session 2004-05)	
First Special Report	Government Response to the Committee's First Report of Session 2004-05, on the Draft Regional Assemblies Bill	HC 459

Session 2003-04

First Report	ODPM Annual Report and Accounts 2003	HC 102-1 (<i>CM 6141</i>)
Second Report	Annual Report to the Liaison Committee	HC 221
Third Report	The Fire Service	HC 43-1 (<i>CM 6154</i>)
Fourth Report	Coalfield Communities	HC 44-1 (<i>CM 6265</i>)
Fifth Report	Decent Homes	HC 46-1 (<i>CM 6266</i>)
Sixth Report	Social Cohesion	HC 45-1 (<i>CM 6284</i>)
Seventh Report	Postal Voting	HC 400-1 (<i>HC 973</i>)
Eight Report	The Role and Effectiveness of the Housing Corporation	HC 401-1 (<i>CM 6351</i>)
Ninth Report	Local Government Revenue	HC 402-1 (<i>CM 6328</i>)
Tenth Report	Supporting Vulnerable and Older People: The Supporting People Programme	HC 504-1 (<i>CM 6348</i>)
Eleventh Report	The Role of Historic Buildings in Urban Regeneration	HC 47-1 (<i>CM 6420</i>)
Twelfth Report	Draft Planning Policy Statement 6: Planning for Town Centres	HC 952
Thirteenth Report	Gypsy and Traveller Sites	HC 633-1 (<i>CM 6465</i>)

Oral evidence

**Taken before the Office of the Deputy Prime Minister Committee:
Housing, Local Government and the Regions Committee
(Urban Affairs Sub-Committee)**

on Monday 6 December 2004

Members present:

Chris Mole, Chairman

Andrew Bennett
Sir Paul Beresford
Mr Clive Betts

Mr John Cummings
Mr Bill O'Brien
Christine Russell

Witnesses: **Ms Claer Lloyd-Jones**, Director of Legal and Democratic Services, London Borough of Hackney, **Mr Gordon Mussett**, Town Clerk, Haverhill Town Council, and **Mr Mirza Ahmad**, Chief Legal Officer, Birmingham City Council, examined.

Q1 Chairman: Good afternoon. Welcome to the first session of this Urban Affairs Sub-Committee's inquiry into the Role and Effectiveness of the Standards Board for England. Could I welcome the witnesses and ask you to give your names for the record, please.

Mr Ahmad: Thank you, Chairman. I am Mirza Ahmad. I am the Chief Legal Officer for Birmingham City Council

Ms Lloyd-Jones: Claer Lloyd-Jones. I am the Director of Law and Democratic Services at the London Borough of Hackney.

Mr Mussett: Gordon Mussett, I am Town Clerk for Haverhill Town Council.

Q2 Chairman: Good afternoon and welcome. Would any of you like to make an opening statement or are you happy to go straight to questions?

Mr Ahmad: Happy to go straight to questions.

Q3 Mr O'Brien: It has been argued that introduction of a written Code of Conduct has given an opportunity for troublemakers to achieve political gain. Do you believe the Standards Board for England as worked hard enough to prevent this happening?

Mr Mussett: I will answer, if I may.

Q4 Chairman: Yes—and I should just say that if you agree amongst yourselves you do not have to repeat what other speakers have previously said.

Mr Mussett: I will answer for my authority. Certainly the Standards Board would seem to have been not as prepared as it might have been to deal with vexatious people who were out to score points. Other organisations have had experience of how to handle these people who submit multiple complaints and I believe the Standards Board perhaps did not take on board the experience of those other organisations.

Ms Lloyd-Jones: Certainly the proposal that Hackney favours, which is that there should be a local filtering mechanism before complaints go to

the Standards Board, would allow local experience and knowledge of where there are serial or vexatious complainants to be weeded out at a very early stage by those within the authority who do have experience of handling complaints, either through the council's complaint system or to the ombudsman, or even complaints against councillors—which of course we used to have a jurisdiction to deal with previously.

Mr Ahmad: It is the same from my perspective, Chairman. The issue is one of ethics across the board. Where there are open and transparent arrangements in place, individuals will use the opportunity to test the system and obviously to see whether or not the complaints are followed through. I think it is right to say that the Standards Board for England has struggled with the earlier years to weed out those frivolous and vexatious complaints to the extent that it should.

Q5 Mr O'Brien: Do you think the aims and objectives of the Standards Board: confidence in local democracy and governance, have been achieved?

Mr Ahmad: From my perspective and Birmingham City Council's perspective, I think it has achieved a fair amount of that confidence in local governance. I must, however, emphasise that that does not mean confidence in local governance was at a low level. I think generally confidence in local governance was high, but the independent aspect of the Standards Board of course has helped.

Q6 Sir Paul Beresford: This whole procedure has allowed the nutters which every areas has to sit there and complain—as they did in the past, but they can carry it further—with vendettas between individuals, be they elected or non-elected or against elected. Really the Standards Board should be acting on these people more strictly than they are, should it not?

6 December 2004 Ms Claer Lloyd-Jones, Mr Gordon Mussett and Mr Mirza Ahmad

Ms Lloyd-Jones: I do not have any experience of frivolous or vexatious complaints that have been made either directly to the authority or to the Standards Board in relation to Hackney members recently so I cannot comment on that.

Q7 Sir Paul Beresford: You must live in a unique area.

Ms Lloyd-Jones: I think there is a problem with the extreme delay that there has been in the first stage of the complaint process being fed back to local authorities. Therefore the local knowledge that we have, if it is a frivolous or vexatious complaint, cannot be fed into the complaint system sufficiently early in the process. I would also add in relation to your previous comment about the remit of the board that it is confidence in local democracy that we are looking at and therefore there does need to be a local dimension and there does need to be local input into the management of ethical framework locally. It is important that here is a national body which can lead and influence the way it is interpreted locally.

Q8 Mr O'Brien: Do you consider that local democracy and governance are being achieved at this moment in time?

Ms Lloyd-Jones: I do not think the Standards Board or even a local standards committee by itself can achieve that. I think, with respect, you may be concentrating too much on the issue of complaints' handling, whereas in fact the other half of the board's remit—in fact the major remit of local standards committees—is to deal with training, is to deal with giving guidance, issuing protocols and so on, in terms of leading local authorities to a norm of high ethical standards and good behaviour both by councillors and by local employees.

Q9 Mr O'Brien: Taking into consideration training and lecturing, are we achieving democracy and governance at a high standard?

Mr Mussett: You must see it as a journey: you are not at the terminus, you are some way down the road, and by the time we have the next round of local government elections experience will be there and you will be closer to it than you were when it was first introduced.

Q10 Christine Russell: Could I move on to ask you about the impact of the establishment of the Standards Board on town and parish councils. In particular, what problems have parish councils had in interpreting the regulations and dealing with the regulations?

Mr Mussett: The introduction of the code was widely accepted but there were a number of parish councils who felt they did not need to be adopting the code because they were already adhering to good practice. Certainly there were a number of parish councils which failed to sign up to the code within the time scale.

Q11 Christine Russell: I do not now how extensive your experience of parish councils is but in the past parish councils have very much been a law unto themselves, not wishing to be controlled or regulated by anyone.

Mr Mussett: I think there was perhaps some degree of that, and the audit and accounts regulations which preceded this code had been another instance where there had been resistance.

Q12 Christine Russell: Do you think again from your experience, that the Standards Board recognises the difficulties that some parish councils have had with the welter of regulations they now have to adhere to?

Mr Mussett: It is not just the Standards Board alone; I think the Government in totality has a problem in communicating its regulations down to parish council level. As far as the Standards Board is concerned, a lot of the onus for delivering guidance falls upon the clerk and the clerk in many parish councils operates out of their own house for two, three, four hours a week, and you have to recognise that you have the variation between the part-time clerk, who is overwhelmed with new legislation and changes to legislation, as distinct from a county council, say, where there is a wealth of people who can work on the regulations and analyse them.

Q13 Christine Russell: What explanation would you give other than the workload of the clerks for the fact that proportionately the volume of complaints has been far heavier from parish councils than from other local authorities?

Mr Mussett: Some of it is to do with training. I can speak within Suffolk and within Essex: although the local associations of councils provided training, not all councils took up that opportunity, so within any one parish the number of councillors who have been trained in the code is remarkably few. The other aspect of course is that parish and town councillors tend, in the main, to be non-politically aligned, so they do not have the back-up experience that a member of a political party might get, such as if they were a member of a borough council or a county council.

Q14 Christine Russell: Is that another way of saying they are remarkably inconsistent in their views?

Mr Mussett: I think it is another way of saying sometimes the political parties may have the opportunity to provide training and give experience to their councillors, but independent councillors, particularly at parish level, tend not to have access to that opportunity.

Q15 Christine Russell: In your experience of parish councils in and around Suffolk and Essex, do you think the introduction of the Code of Practice is going to make it more difficult not only to recruit clerks but also to encourage people to stand for election to parish councils?

Mr Mussett: Once the problem that we have encountered with frivolous and vexatious complaints can be eliminated, then there will be no problem in recruitment of parish councillors. The

6 December 2004 Ms Claer Lloyd-Jones, Mr Gordon Mussett and Mr Mirza Ahmad

code will not present any problems in terms of recruitment of parish councillors. It is more difficult to operate within the code at a parish council level, because in a very small village the chair of the parish council is very often on the church council, they are very often the leader of the WI in the village, and they are very often on the village hall management committee, and all those things mean that there is a lot of declaring of interests and exiting themselves from the meetings. So it does make the day-to-day operation of a parish council difficult in some circumstances.

Q16 Andrew Bennett: If I may come on to the role of the council officers, do you think as a principle that if someone makes a complaint the council officers should know that they have been complained about?

Mr Ahmad: This is where the complaint is from a council employee rather than—

Q17 Andrew Bennett: As far as I am concerned, it is where anyone has made a complaint. It seems to me that if someone makes a complaint about the way in which something has been done by a council or an individual officer, it ought to be almost like natural justice, that the person who is complained about should know the Standards Board is investigating.

Mr Ahmad: I think there is a mixed view, if I may start—and I know Claer has a view on this. Clearly lots of complaints procedures involve preliminary investigation without necessarily causing any anxiety to the person complained against, so there is a logic in terms of why people would not necessarily tell somebody that they have been complained against in the first stage. However, I think there comes a time when you say, “There is sufficient evidence here that the person who has been complained against ought to know”—which is why I sought the clarification in terms of officers—should the monitoring officer or the chief executive, as Head of Paid Service, know about that scenario. I think there is a relationship issue between the Standards Board and the monitoring officer when they have received a complaint and it is sufficiently developed that they are going to be looking at it at a serious level, then the monitoring officer should be told about the complaint.

Q18 Andrew Bennett: The monitoring officer but not the individual who has been complained about?

Mr Ahmad: I am sorry, the individual as well should be told at that time.

Q19 Andrew Bennett: And if it is going to be dismissed as frivolous, you do not see any need to tell the individual.

Mr Ahmad: In terms of best practice, I think you will find there are quite a few national codes which follow that similar model and I, as a member of the Bar, have a similar provision there as well.

Ms Lloyd-Jones: If I could add that I think it is absolutely vital that the monitoring officer is aware as early as possible about complaints because there may well be action which the authority needs to take which is not just to do with the investigation of the

complaint. It may be, for example, that in a case of breach of confidentiality or misuse of resources or some such, there is administrative action which the monitoring officer, in compliance with our duties to uphold legal principles and so on and best practices in administration, would need to take some steps on, which would not interfere with the legitimate investigation of the complaint subsequently but which would safeguard the councillor’s position in those circumstances.

Q20 Andrew Bennett: In most instances the monitoring officer is the chief executive.

Ms Lloyd-Jones: No. The monitoring officer is not allowed to be the chief executive because of the amendments in the 2000 Act.

Q21 Andrew Bennett: At what point should the chief executive know?

Ms Lloyd-Jones: Assuming there is a close working relationship between the monitoring officer, the section 151 officer and the Head of Paid Service, it would certainly be my experience that the monitoring officer would want the Head of Paid Service to know, particularly if administrative steps needed to be taken or, indeed, if there was a group investigation on the same facts—which there often is. Then the Head of Paid Service would be told, I am absolutely confident, by the monitoring officer.

Q22 Andrew Bennett: It would be at the discretion of the monitoring officer rather than a requirement on the monitoring officer to tell the chief executive.

Mr Ahmad: I know where you are coming from on that, which is that the correspondence from the Standards Board for England makes it very clear that it is strictly in confidence and private to the monitoring officer. I think the issue there is: does it need to be? You are quite right to challenge that. I would question and challenge that for the same reasons Claer has exposed, primarily that the relationship to the monitoring officer and the Head of Paid Service and the other statutory officer has to be a very close one by its very nature, and if there are, dare I say it, administrative or other quasi-political or judicial aspects to be considered at a city council or borough council level, then it is only right and proper that the monitoring officer is not put in that position of breaching a confidential requirement.

Q23 Andrew Bennett: Mr Mussett, you were concerned in your evidence about the problem of somebody complaining about a councillor from within the authority on the question of that somebody being bullied. Do you think it is easy to define what bullying is?

Mr Mussett: Certainly in the cases of which I am aware where clerks of parish councils have complained about members, the evidence of bullying has been there for all to see, both in the council chamber and without.

Q24 Andrew Bennett: It seems to me that if you were an elected representative or a member of Parliament there would be a lot of occasions when on behalf of

6 December 2004 Ms Claer Lloyd-Jones, Mr Gordon Mussett and Mr Mirza Ahmad

your constituents you would want to bring pressure on to officers to do various things. It seems to me there is a very thin line between putting legitimate pressure on and bullying.

Mr Mussett: As an officer, I very often have to put pressure on officers of the borough and the county council, and if I know the line between putting the pressure on and bullying I expect members to know the line between putting the pressure on and bullying. Putting the pressure on is asking questions and expecting answers within a reasonable time scale; it is not, as has happened in my experience, having countless emails, countless public debate on the subject, all within a very short time scale.

Mr Ahmad: Could I add that it is probably the nature of the parish and the city council. Claer and I both have in our local authorities what are called member/officer relations' protocol. Bullying *per se* is not in the Code of Conduct for elected members at the national level but bullying, victimisation, harassment are all key things which I have included with my standards committee as part of the member/officer relations' protocol, so they are not in a sense breaching the Code of Conduct, but if a member breaches any part of that protocol then they will be up against a standards committee and will be held accountable. Certainly over the last eight months I have had cause to do that. It did not go into a code of conduct issue but the member was brought up to speed in terms of what was acceptable behaviour and what was not acceptable behaviour.

Q25 Andrew Bennett: Do you think there is a standard that applies to everybody? My experience is that when you are talking to council officials—and I would assume this is the same for councillors—you know that some are fairly robust and will give as good as they get and others will be a little unhappy at fairly strong exchanges with perhaps a few expletives expressed on both sides.

Ms Lloyd-Jones: I think it is possible to give guidance which reflects local conditions. For example, in Hackney we have a member's inquiry protocol which requires all inquiries in the first instance to go via the director, precisely because the sort of scenario that you are talking about had happened where councillors were putting pressure on quite junior officers who were actually not robust enough to say anything other than, "Okay, I'll fix it tomorrow," because having a councillor coming at you when you are a fourth, fifth or sixth tier officer is quite a frightening prospect. So you can give advice like that which would avoid those situations arising.

Q26 Andrew Bennett: Is that not a very democratic process? I work on the principle as a member of Parliament that I will try to get hold of the person who might be able to fix it and only when I have discovered that that person cannot fix it do I start moving up the layers, possibly to insist that there is a change of policy.

Mr Mussett: We tend to work from the other way: we look for the person who can authorise it being fixed—because there is a world of difference between

the person who can fix it and the person who can authorise it being fixed. If I had to put pressure on, the sort of pressure that goes on goes on at the director/chief executive level of the borough council. I might start talking to the cleansing superintendent, but, if I felt there was an issue from there on in, I would leave it and go up and work my way down the chain of command because that is the way it goes. You also have to recognise what is reasonable and what is unreasonable. Reasonable is expecting another authority to comply with its own written standards and expectations; unreasonable is expecting it to go beyond those remits, just because you want that, as such.

Q27 Mr Betts: There has been criticism that to begin with the Standards Board spent quite a lot of time developing its own systems, putting on commercial events, producing glossy brochures and all that sort of thing and not dealing with the complaints it was getting.

Ms Lloyd-Jones: I think you probably would have to ask the Standards Board about the initial time allocation, but, from the outside, waiting for responses to complaints, the first one that I am aware of took six months for us even to have an acknowledgement that a complaint had been made. It did feel as though attention was not necessarily being given to the basic service delivery at the beginning. I think we would all acknowledge, though, that things have improved and that the Standards Board have very definitely improved the time scales of the more recent complaints that have been made to them and are making inroads into the backlog.

Q28 Mr Betts: Is that improvements since last year? The figures I have for last year show that their target was to deal with 90% of the cases referred for investigation within six months and in fact they achieved 38%—less than half the target. That is pretty awful, is it not, when people are left hanging around for that length of time?

Ms Lloyd-Jones: Yes.

Q29 Mr Betts: Do you think it has got better since last year?

Ms Lloyd-Jones: Certainly the most recent experience I have had of a complaint that was made within the last two to three months is that I was notified straight away about it—which was a distinct improvement—so was the person complained about; and it has been referred for investigation quite speedily. So my personal experience is that things are better now than they were a year ago.

Mr Ahmad: There is a pragmatic answer to this—and I am not seeking to defend the Standards Board here: I am sure they will be able to defend themselves on this. That pragmatic answer is one of logistics, in terms of getting staff through the process and trained and developed. I know from discussions with the Standards Board that things are improving and that they have extra staff to turn that workload through. I think, with fairness, it is also a recognition that the Standards Board were starting from a zero base: it

6 December 2004 Ms Claer Lloyd-Jones, Mr Gordon Mussett and Mr Mirza Ahmad

was a new creature and clearly it had to set the procedures in place. But also I think what seems to have scuppered some of the development is primarily the magnitude of complaints from parish councils. I do not think anyone pragmatically realised when they were creating the Standards Board that that was going to be the scenario.

Q30 Andrew Bennett: Is it very unsatisfactory that it takes this length of time.

Ms Lloyd-Jones: Yes, it is.

Q31 Andrew Bennett: If you are a shrewd political manipulator, in March you announce to the local paper that you are making a complaint against one of the candidates in the election, do you not? You can more or less guarantee that the election is over long before a small story possibly appears in the paper saying that the allegation was totally unfounded.

Mr Mussett: Yes, I would echo those sentiments.

Q32 Andrew Bennett: So what do you think the turnaround should be? Seven days?

Mr Mussett: I think it is impossible to put a time limit on turnaround because you are looking at an allegation which might be easily dismissed or which may actually lead to major investigations.

Mr Ahmad: Birmingham City Council's submission echoed that one of the reasons why there is a delay factor is because of the centralised co-ordination and the nature of complaints having to be filtered from a national body. I know the regulations have come into effect now which will allow the Standards Board to refer things down to the standards committee, but my committee is very clear that there is a role for local standards committees to be the first point of contact. I know that not many authorities share my authority's view on that because there are resource implications, but certainly the likes of Birmingham would have no difficulty in dealing with matters very quickly, promptly, to deal with allegations and things that just hang in the air.

Q33 Mr Betts: One other issue has been referred to us—and one authority drew our attention to a particular case: an allegation was made about a particular act at local level and the individual making the allegation decided that they at this stage were not going to refer it to the Standards Board. Effectively, therefore, the matter is not dealt with and could be raised at any time in the future. Should there be a cut-off date, so that if a matter is not dealt with in a certain period of time the case is deemed to have failed?

Mr Ahmad: The Standards Board, I think, have a running rule: anything beyond three months is unlikely to get the magnitude of seriousness that a complaint if it is really genuine and serious would get if it came in straight away. That is not to say that the law says three months; that is a local requirement of the Standards Board for pragmatic and realistic reasons have imposed. I think there is an argument to say that maybe a recommendation along the lines of three months is not a bad idea.

Mr Mussett: Certainly one of the cases within my authority involved an ex-councillor who was no longer a member of the authority when the allegation went in, so I would certainly suggest that there ought to be some sort of time limit after which no further allegations can be made about the act in question.

Q34 Christine Russell: Earlier Mr Mussett highlighted either the inability or the unwillingness of elected members to take up training opportunities. What are your views on whether the training for elected members should be compulsory, particularly regarding planning matters?

Ms Lloyd-Jones: In the London Borough of Hackney, we adopted a member training policy. I have brought the annual report with me which I am happy to leave for you to look at. Certain training is compulsory before members are enabled to take up their roles. For example, with planning and licensing, members in Hackney are not able to sit on those committees without attending ethical framework training and minimum training on the statutory framework within which they are operating, given by both lawyers and planning officers within the authority. The standards committee in Hackney in fact has oversight of the member training programme for all training. It therefore takes into account training which would have a compulsory element in terms of good practice and good governance in decision making generally.

Mr Ahmad: Where there is a quasi-judicial type inquiry, which planning and licensing are, then members should have no difficulty in attending and for that training to be made compulsory. In fact the city council already insist in relation to planning, and obviously in relation to licensing when it is brought into effect in February, that there will be training given. However, if you wish to extend the remit of that question to just general training on ethical framework issues, then, yes, we certainly do provide training for the members, newly elected members—the invite goes to all members—but if you were to make that compulsory I think you could find a lot of elected members saying, “Well, I shall attend for five minutes and bugger off”—sorry for the non-parliamentary language. That is a scenario that may happen. I do not think it should happen but I personally feel that under that scenario it is more likely to be discretionary that will achieve the result.

Q35 Christine Russell: Do you agree that for those matters you have identified—

Mr Ahmad: The quasi-judicial matters.

Q36 Christine Russell: Yes—that it should be.

Mr Ahmad: Absolutely.

Q37 Christine Russell: Mr Mussett, I know parish councils do not determine planning applications but they are important consultees. What are your views on training, particularly in planning law, for parish councils?

6 December 2004 Ms Claer Lloyd-Jones, Mr Gordon Mussett and Mr Mirza Ahmad

Mr Mussett: Certainly training in planning matters is one of a number of courses which are offered locally for councillors.

Q38 Christine Russell: Who organises this?

Mr Mussett: In Suffolk they are organised by the Suffolk Association of Local Councils who are a sub-branch of the National Association of Local Councils. But it is a case of horses and water: you can put the courses on, but, as to being able to encourage the members to go, we have no stick with which to beat them to make sure they do go. In terms of, for example, the quality town and parish council award, there is a requirement that the clerk has reached a particular qualification but there is no similar requirement for a percentage of members to have attended training courses,

Q39 Chairman: Are you confident the Standards Board understand the intricacies of planning decisions when they are making judgments about things that have been referred to them in that sort of circumstance?

Mr Mussett: It is difficult to generalise. You will have seen in the submissions you have received that it varies between the different standards of ethical standards officers, so I think it is wrong for me to generalise.

Q40 Chairman: Could I wind up by asking you about your feelings about the link between the Code of Conduct, if there should be a link, and the assessment of a local authority's accountability through the Comprehensive Performance Assessment.

Mr Ahmad: Certainly I have seen some changes to the Comprehensive Performance Assessment, the key lines of inquiry by the Audit Commission. I have seen those. Claer and I have certainly commented on those from the Association of Council Secretaries and Solicitors. I think it has to come. There is no question about it. If the local authority is serious about improving performance, improving services, making sure citizens are looked after appropriately in terms of what they have elected them to do, then ethical framework is the mechanism by which it is delivered by those who are in decision-making power

Ms Lloyd-Jones: It is an issue that Hackney standards committee has explored in conjunction with the partnership organisations, through the

Raising Standards Conference agenda—and, again, I will leave a copy of this for you. The chief executive of the Audit Commission came to speak as well as the chief executive of the Standards Board for England. The theme is that high standards of behaviour by both councillors and officers leads to better service delivery. We therefore entirely see the connection and the way the CPA is going. I think the Use of Resources Service Block—which currently measures quite technical things like: Is there a code of conduct? Is everyone signed up to it?—does not go far enough, so I certainly welcome the development from the Audit Commission in looking at the relationship between service delivery and behaviour and we completely agree that that is the way that councils will improve service delivery, and therefore their CPA score, by having a robust ethical framework across their areas, not just across their services.

Q41 Andrew Bennett: Is this not an element of local authorities having to do more and more training and meet higher and higher ethical standards but having less and less power to do anything worthwhile for their communities.

Ms Lloyd-Jones: I do not think that is right if you look at the influence which goes through strategic partnerships. Indeed, part of the *Raising Standards* agenda that we had in Hackney was that we had a number of our partners there, health partners, the police, the voluntary sector partners, housing associations and so on, and our standards committee at the moment is being asked to extend its jurisdiction, if you like, through the voluntary sector compact and the housing compact with housing associations, so we are looking at a single ethical platform, set of standards, code of conduct across the piece. Local authorities using their influence in this way is very much welcomed actually by our partners because the independent members of our standards committee do have experience in local adjudications and there is, therefore, belief that this is a legitimate role for the local authority.

Q42 Mr Betts: Does that cover the private sector members of local strategic partnerships?

Ms Lloyd-Jones: Yes, indeed.

Q43 Chairman: On that note, could I thank you very much.

Ms Lloyd-Jones: Could I leave these packs for you?

Chairman: Thank you.

Witnesses: **Councillor Jim Breakell**, Chairman, South Ribble Borough Council Standards Committee, **Professor Richard Chapman**, Chairman, City of Durham Standards Committee, **Mr Denis Wilson**, Chairman, Northamptonshire County Council Standards Committee, examined.

Q44 Chairman: Good afternoon, gentlemen. Could I ask you to give your names for the record, please.

Mr Wilson: Denis Wilson, Northamptonshire County Council.

Professor Chapman: Richard Chapman, Chairman of the City of Durham Standards Committee.

Councillor Breakell: Councillor Jim Breakell, Chairman of Standards at South Ribble Borough Council.

Q45 Chairman: Do you feel the need to make brief introductions or are you happy to go straight to questions?

Mr Wilson: I am happy to go straight to questions.

Councillor Breakell: That is fine, thank you.

Professor Chapman: We are all very happy.

Chairman: Could I say that, if you agree with each other, please do not repeat, but, if you disagree, feel free to jump in and do so.

Q46 Mr O'Brien: Gentlemen, you all have experience in dealing with the Code of Conduct. How effective have the Standards Board been in promoting and overseeing it?

Mr Wilson: I think the one complaint we have is the length of time—and that has been raised. In overseeing the code, it takes a long time for a case to come up, but, in promoting the code, I think the documentation they have delivered both to the standards committees, councillors and, indeed, the general public has been very helpful, in particular the website for a standards committee is useful because it enables us to look at cases and to use those as examples for training and as examples to councillors.

Professor Chapman: I agree with the question of delays, particularly at the beginning of the experience with the Standards Board. I would also like to add that in the early times of the Standards Board our experience was that we did not get the sort of advice from the Standards Board we were hoping to receive. Things have become better as time has passed, but at the beginning, in particular, I think the Standards Board was suffering from inexperienced staff and, indeed, staff who were not necessarily the best informed either to be doing the jobs they were doing—and I could illustrate that if you wish.

Q47 Mr O'Brien: The current situation?

Professor Chapman: That has improved considerably. Comparing four years ago with today, we are experiencing a much more professional attitude from the Standards Board than there was at the beginning.

Q48 Mr O'Brien: How long does it take to settle a case now or investigate a case?

Professor Chapman: If you are asking about times for settling—

Q49 Mr O'Brien: That was the problem you raised in the initial stages, was it not?

Professor Chapman: Yes, the delays were as much in terms of getting things through the system. Six months or more was quite normal for anything even of a relatively minor nature. We are blessed so far in not having had any major complaints going through the system. Most of ours have been what I would categorise as minor, and in some cases vexatious, but, even so, they were, at the beginning in particular, taking six months or more. The other thing I would like to add, if I may, is that I do not think the Standards Board, and perhaps the ODPM for all I know, have taken on board some of the resource implications of the system which we have set up. We have already experienced that to some extent with the work of the standards committee so far, but it is going to be more significant as we get investigations and determinations being sent down to us from the Standards Board.

Q50 Andrew Bennett: Has the Code of Conduct really changed or is it a bit ambiguous?

Professor Chapman: You are asking me for my personal opinion now and I am happy to give it.

Q51 Andrew Bennett: Yes.

Professor Chapman: I do not think it is particularly ambiguous. I think it is fairly clear. I think we are unhappy about, I think, item 7—the one that says that councillors have an obligation to report matters which they think could be matters for complaint and if they do not do so then they themselves would be guilty—because this stimulates people or gives them an excuse when they would not otherwise have this problem.

Q52 Andrew Bennett: You think that one bit would be better out of the code.

Professor Chapman: I would be very happy if that bit were out of the code, yes.

Q53 Andrew Bennett: Does the Standards Board itself interpret its own code consistently?

Professor Chapman: As far as I can see it does. I have no experience.

Councillor Breakell: I do not think I have experience to answer that. I am perfectly happy with the aims and intentions of the Standards Board. I think its ideals are very good. Like the professor, we have a council where we do not have tremendous problems—touching wood!—but we have similar problems. I think delay was one of the features which we put in the written statement in the first place.

Q54 Andrew Bennett: And they are consistent in that: there is delay for everybody!

Councillor Breakell: Consistent on delay, certainly. Without a doubt.

Mr Wilson: On delays, the longest we have had was two years—and that will be settled hopefully in January—but I think we have had a later case which went a lot quicker.

6 December 2004 Councillor Jim Breakell, Professor Richard Chapman and Mr Denis Wilson

Q55 Andrew Bennett: I am tempted to ask of the case which took years, if it was a guilty or not guilty finding.

Mr Wilson: I have said it will be determined in January. But that is a long time for a councillor to be under suspicion. I think it is a problem not only for the councillor but it is a problem for the person who complained, and it is also a problem for his party and for the public as well. I think it really needs to be addressed to get these cases seen to a lot quicker than they have been in the past.

Professor Chapman: So far we have concentrated on delays in regard to cases because that is the way it has turned out in the questions we were being asked, but I would like to mention that there have been delays of other sorts as well, which are at least as serious and perhaps more serious. This is coming up to my fourth year. I was appointed as an independent member at the beginning of this experience and I have two more meetings to go before the end of my term of office. The Standards Board—and I agree with the Standards Board—recommend that you should not carry on for longer than four years. During my experience we would not have had any investigations dealt with locally or determinations dealt with locally—and looking back, this is a bit of a surprise, compared with what we had expected. But the delays I would like to draw your attention to are delays in introducing things like regulations under section 66 of the Act, because the serious fact is that if you continue to have the delays we experience in regard to that and other similar matters then it brings the whole system of democracy, the whole structure we have set up, into a bit of disrepute. If you have these agencies, the Standards Board, the ODPM, the standards committees and so on, and you cannot carry on doing what you are meant to be doing in accordance with the 2000 Act, then the whole thing becomes a little bit of a farce.

Q56 Andrew Bennett: Whose fault is it: the Standards Board that they did not get the regulations out or ODPM?

Professor Chapman: It is very difficult for me to say assertively, but, from asking questions—and we are not beyond asking questions in the City of Durham, may I say: we have asked questions as far as we can every time we have been frustrated—it seems to be that the ODPM was unable to produce the goods for the Standards Board to give us the advice on. From my point of view I would say that, if I had the power, I would be going along to the Standards Board, banging on the door and saying, “Why was the chief executive officer not going down to Whitehall and banging on the door of the ODPM?” But that is my personal view.

Chairman: We do not know that he was not.

Q57 Mr Betts: The submission from Durham Standards Committee made reference to clause 7 and said it should not be there. Why should there not be that requirement? If one councillor has seen something wrong being done by another councillor,

you cannot expect the individual to turn their backs on it, pretend it did not happen, and decide it is not worthy of being reported

Professor Chapman: No, I would come back to that and say I can take an extreme position in the way that you appear to be taking a more extreme position than the case I put. At the end of the day, councillors have to exercise judgment. If they do not exercise judgments and carry on according to the letter of everything just because that is a convenient opportunity to make a case, then, again, the thing goes into disrepute. I think people must use common sense. They must exercise their judgment and they do not necessarily have to follow rules. If you have a rule for everything in life, then that is most unfortunate in my opinion.

Q58 Mr Betts: Coming on to the issue of regulations, a lot of guidance has been issued on these matters. Has that been effectively communicated? Is it easy to understand?

Mr Wilson: From the point of view of our council and the standards committee, yes, it has been communicated quite well. The instructions or the guidance on local determination committees and dual-hatted committee members are particularly good. The standards committee can set out the procedure for a local hearing and can give advice on lobbying of dual-hatted members. I have not fully read the new one on local investigations, but I know that is out on the website. There, again, I would say that all these publications are very easily available on their website, very easy to access and very easy to read.

Q59 Christine Russell: Professor Chapman just gave us some good constructive criticism about the early days following the establishment of the Standards Board and the standards committees. How would you summarise the relationship today, four years on, between the Standards Board and the standards committees?

Professor Chapman: On the question of delays?

Q60 Christine Russell: Yes.

Professor Chapman: Without going into detail, we had a case reported four months ago now. Since then we have had a letter of acknowledgment and another letter saying something is going to happen, but otherwise we have not been contacted for further evidence, and as far as I am aware—and of course I am not part of what is going on behind the scenes—nobody else has been contacted either. So that one has been running for four months and that is relatively recently.

Mr Wilson: As a committee we have had little contact with the Standards Board, apart from the national assemblies, which have been very useful: we have had a lot of practical advice from them. Otherwise, I think most of the contact has been with our monitoring officer and his staff. My understanding is that the support they get is quite good but the only criticism I heard them make was that it is not easy to get through to the right person first.

6 December 2004 Councillor Jim Breakell, Professor Richard Chapman and Mr Denis Wilson

Professor Chapman: When you asked the question, if I am correct, you used the word “relations”.

Q61 Christine Russell: Yes, the relationship between committees like yours and the Standards Board.

Professor Chapman: I would agree with the comments of both my colleagues here. I would add that there are one or two other things as well one could mention. One of these is, for example, the annual assembly, the big conference which appears to have been very successful. I attended the first one but we were unable to go to the second one or the third one because it really is too expensive.

Councillor Breakell: Indeed.

Professor Chapman: It is extremely important to pay attention to this because our most significant work so far has been in training and advancing the climate and culture of ethics in the local government. One of the best assets to us is attendance at that sort of event, but if we cannot afford to go, it again undermines the purpose of the whole exercise.

Q62 Christine Russell: Where was the conference? London?

Professor Chapman: Birmingham.

Q63 Christine Russell: Some of the evidence we have had submitted seems to point to the fact that it has been quite difficult to get the public involved in standards committees. Would you like to comment on that?

Mr Wilson: In being involved in sitting on standards committees as independents?

Q64 Christine Russell: Yes, to serve on standards committees.

Mr Wilson: Certainly in Northamptonshire we have no vacancies. Our committee is three independent members, of which I am one, and two councillors. We have had no evidence of problems in getting people to come forward. When I applied there was an interview and I think there were quite a number of applicants. I do not see that there is a problem.

Councillor Breakell: We have one member from each of the four political groups and we have two independent members. We publish an advertisement seeking applicants. We were not short of applicants: we got five for two posts. We went through a selection process with interviews and we selected two very competent members from the independents.

Professor Chapman: I am one of the two independent members and I am very happy to be one of the two independent members. We did have an interview system and there were other candidates. But the question you asked related to the involvement. I would like to think there would be more involvement from the public generally. Nobody seems very interested outside in what we are doing. I would like to think that what we are doing is important in terms of democracy in terms of the public's interest. It is a great pity to my mind that we do not get the attention and there is not the interest in local democracy that there ought to be.

Q65 Christine Russell: Is that a criticism of yourselves because you do not promote yourselves and raise awareness of your existence perhaps?

Professor Chapman: It is very difficult to raise awareness of one's existence when the means of communicating with the public is, to a large extent, through the press but the press is not interested in us because we are not doing things that interest the press.

Christine Russell: I thought they would be very interested.

Q66 Mr Cummings: Not unless the press is crucifying a councillor.

Professor Chapman: Yes. If you have a case, then you have an interest, but if you do not have “juicy” cases, if I may put it like that, then the press is not very interested. If you look at all the meetings we have at two-monthly intervals over the last four years most of them have been taken up with consultation exercises for the Standards Board or yourselves or for the Committee of Standards in Public Life or any one of a number of other things. We are very good at being consulted with, but if you attend our meetings and listen to us going through the documents clause by clause, and line by line, it does not make for very good reporting in the local press. I am pleased to say that we have had no, what I would call, “juicy” cases to attract the attention of the press.

Q67 Mr Betts: Does the Standards Board have enough flexibility to refer quickly and effectively the less serious cases to committees like yours?

Councillor Breakell: I think the idea is it is going to improve, is it not? I am a member of a hospital board as well and I am always delighted by the straightforward triage system which we have in accident and emergency, as an example. I feel we could have a rapid turnaround by a triage of cases received. The fact that everything has to go into the melting pot and be sifted through, taking months to be resolved, I think is unnecessary. I would have thought that a very quick turnaround could be taken with those cases which one could deem from first sight to be either vexatious or trivial, with those cases being referred back very quickly either to you as an authority, to your monitoring officer, or else to the monitoring officer of an adjoining authority so that they could do a bit of *quid pro quo*.

Q68 Mr Betts: One of the suggestions that is being made to us is that it might be better if we reversed the whole process, so that the cases initially came to local standards committees, which would sift out the really serious ones and send them to the Standards Board.

Councillor Breakell: So you form your own triage, in fact, and do it yourself.

Mr Wilson: I would wish to disagree with that idea. Our committee considered that and one of the aims of the exercise is confidence, local confidence. We felt that if we as a council were investigating ourselves, the public would tend to lose that

6 December 2004 Councillor Jim Breakell, Professor Richard Chapman and Mr Denis Wilson

confidence. We felt it should go to somewhere independent and then be referred back down, as it is at the moment. The other issue is consistency, to make sure you get consistent referrals down. If you do get a very serious case there is the possibility of officers being lent on at the local level. I am particularly thinking about the really serious cases which you are probably familiar with. We felt the best way at the moment was to go up, straight to the Standards Board, but have a quick reference down. I am talking about the flexibility of the Standards Board to refer matters down to the standards committees and, indeed, for local investigation and determination. That is limited, of course, by the penalties that we as standards committees can impose—which, as you are probably aware, is three months' suspension as a maximum penalty. Anything that would warrant anything more than that, we would see anyway.

Professor Chapman: As I understood it, the question was about the Standards Board's scope for doing this. As far as I can see, the Standards Board could easily now do this with the regulations we have in force. I think the pattern would be different in relation to different standards committees because the political salience, if I may put it like that, in different parts of the country varies from place to place. I could imagine a situation where many cases could easily be dealt with by the standards committee but I would also like to add that an awful lot can be resolved informally without this procedure having to take place at all. There are examples where you may say this is a sledgehammer to crack a nut, and a word informally in the ear of one or two people can often resolve a difficulty without it having to become as significant as going to a case to the Standards Board.

Q69 Andrew Bennett: This question of the naming of members, both as complainants and as people who are found to have committed offences and as people who are cleared, is it consistent? You are making expressions, but the trouble is that those expressions do not appear on the record.

Professor Chapman: I think that was a pause while we looked at each other to see who was going to go first! This is not me speaking on behalf of the City of Durham Standards Committee, but I can give you my personal attitude to that, and that is that, I am afraid, if you are entering into public life you have to face the fact that your name may be mentioned in

contexts in which you would prefer it not to be sometimes. That is one of the facets of working in public life.

Q70 Andrew Bennett: I think we understand that!

Professor Chapman: You do, yes. So, thank you very much! I think, therefore, you have to face that as one of the facts of life. It is better for people to know they are being criticised than it is for them not to know when everybody else knows they are being criticised. Therefore, as I think you put it earlier, it is an aspect of natural justice that somebody who is being accused should know they are being accused.

Q71 Andrew Bennett: What about if someone is found not guilty? As far as I understand it, at the moment the Standards Board puts up the details of somebody who has committed some offence but they do not put up the names of people who have been totally cleared. Is that right?

Councillor Breakell: That is correct.

Q72 Andrew Bennett: Do you approve of that?

Professor Chapman: We seem to be going along that way. I have very little experience on which to base a helpful answer, I am afraid.

Mr Wilson: On the website it does actually give whether there was found no case to answer or no further action would be taken—and there is a difference between the two. I think if someone is totally cleared, that does appear on the website as: "It was investigated by the ESO and the ESO found there was no breach of the code."

Q73 Chairman: If we are looking at when the person being complained against first hears about it, should they hear about the complaint before the Standards Board decides whether to refer it for an investigation?

Professor Chapman: As far as I am aware, the present practice is that they are informed that there is a complaint against them, so they know. It seems perfectly satisfactory to me that they should know at that stage. But that is a personal view.

Q74 Chairman: You have not come across any instances where that has not happened and the first time they hear about it is when they see their name in the newspaper.

Councillor Breakell: No. The normal response seems to be that when the complainant gets confirmation that it is being carried on, the person being complained about similarly gets a letter of confirmation at the same time.

Chairman: Thank you very much for your evidence.

Witnesses: Mr Tim Ricketts, Head of Legal Services, National Association for Local Councils, and *Ms Gifty Edila*, President, Association of Council Secretaries and Solicitors, examined.

Q75 Chairman: Good afternoon. I would be grateful if you could give your names for our record.

Ms Edila: I am Gifty Edila, President of the Association of Council Secretaries and Solicitors.

Mr Ricketts: My name is Tim Ricketts. I am Head of Legal Services at the National Association of Local Councils.

Q76 Chairman: Would you like to make a brief statement before we start or are you happy to go straight to questions?

Ms Edila: Perhaps I may say a few words. First, I would like to thank the Committee for the opportunity to submit our views about the Standards Board in writing and certainly for the further invitation to come here to clarify some of the issues that we have raised and commented upon. Perhaps by way of opening I could say that my association certainly does have a very good partnership with the Standards Board for England in so far as promoting high standards in public office. Our submission has clearly indicated that we certainly do not perceive a major problem amongst councillors in local government. However, we wholeheartedly endorse the need for a code to highlight and certainly to promote high standards as required. By and large, from our point of view, it is working. We have highlighted certain areas of weakness, in terms of challenges that we have faced around things like declarations of interest, whistle blowing and a number of other general points that we have raised, and I would be happy to address the Committee on any of those issues in which you may be interested

Q77 Mr Betts: It has been argued that the introduction of a written code of conduct has given an opportunity for troublemakers to achieve political gain. Do you believe that the Standards Board for England has worked hard enough to prevent this happening?

Mr Ricketts: With parish and town councils it almost goes a bit further than that because generally they do not tend to be political creatures. You would not see them as being split between the different parties, as you would find a principal authority. With parish and town councils there is certainly an axe to grind, and it tends to be within the community rather than for political purposes. That does happen, and I am sure the Standards Board would bear that out. There was an additional difficulty when the code was introduced in that in the first tier of our democratic structure, that is parish and town councils, there is no equivalent of the local government ombudsman, so there is no route for members of the public to bring cases of mal-administration to an independent party to adjudicate on. When the code was first introduced, many members of the community that were represented by their parish and town council saw this as an opportunity to bring cases of mal-administration to the notice of the Standards Board as well as alleged complaints against councillors. There has been a certain mish-mash of matters

brought to the Standards Board, certainly by people with an axe to grind and people who think that this is a viable way to bring matters of mal-administration to the notice of somebody outside of the community, but also of course there are genuine complaints under the code of conduct.

Q78 Mr Betts: Ought there to be some sort of penalty for people who bring vexatious complaints and cause a great deal of aggro and bung the system up so that it does not work properly? Is there something you can do about it?

Mr Ricketts: I am sure there are many facets of public life where you would like to be able to apply that to vexatious people. Again, being a tier that is very close to the community, our parish and town councils have their fair share of people who have bees in their bonnets about certain issues that they want to keep on raising. At this time I would stay clear of producing a penalty as such because we are trying to introduce a system where the processes that we are looking at are transparent. In order for those processes to be transparent, you have to accept that there will be a certain amount of vexatious behaviour by some people who will want to bring matters repeatedly to people's notice. I agree that it can be a problem. I would fall short of saying we should be penalising people for making those requests, thereby preventing people from bringing genuine complaints forward.

Q79 Mr O'Brien: Do you have a view on the guidance given to standards committees about their establishment and operation? Do you think it is adequate?

Ms Edila: Certainly the guidance that has been issued so far we feel has been very helpful. It comes on a timely basis. The Standards Board tends to engage with ACSeS in working through the key issues contained within the guidance to ensure that it is relevant to our local experiences. Clearly, there will be occasions when we may well take a different view on some legal interpretations, and we tend to have a healthy useful dialogue on those.

Q80 Mr O'Brien: You do not see any problems with the advice and guidance given, and think it is adequate.

Ms Edila: Generally we would say it is adequate. In areas where we do have issues we do raise them. We have had one recently on dual-hattedness, a lobbying, and we are talking with the Standards Board about ways to improve some of the guidance and information around there.

Mr Ricketts: I agree with those sentiments. I should add that the Standards Board also publishes a newsletter aimed directly at parish and town councils, which is extremely useful. The website of the Standards Board is a good source of information for parish and town councils. The only sticking point for that is that not all parish and town councils have access to the Internet, but that may be a matter for outside of this particular meeting. The information is there, and generally it is very well accepted.

6 December 2004 Mr Tim Ricketts and Ms Gifty Edila

Q81 Christine Russell: What more can the Standards Board do to communicate with town and parish councils? Obviously if you put more on the Internet, that will be an answer.

Mr Ricketts: I think so. There is a move to now and again having some regional seminars with parish and town councils. Without wanting to number-crunch, there are 8,500 parish and town councils and some 80,000 councillors. Any national body trying to accommodate all those people faces a quite daunting task, and the Standards Board has done well to address that. However, perhaps if we looked at some regional training structure whereby parish and town councils in a certain area could come together on an annual basis or something like that, I am sure that would be very welcome.

Q82 Christine Russell: At what sort of level do you think that could be organised most effectively—perhaps at county level rather than regional level?

Mr Ricketts: County level would be appropriate. I do not know whether this is the right juncture to mention it, but one of the difficulties we find, although it varies across the country, is that while standards committees themselves have a duty under the 2000 Act to provide training to parish and town councillors, the implementation of that training is good in some areas but very poor in others. I do not want to state the obvious, but—

Q83 Christine Russell: Are there league tables to demonstrate that?

Mr Ricketts: I am afraid there is not a league table; I can only give you personal experience. I do not have those kinds of figures, but the input I get from colleagues in county associations is that it does vary immensely around the country. I am sure that as far as the dissemination of advice and training from the standards point of view is concerned, that would be greatly assisted if standards committees were able, be it by resource or whatever, to have the information to provide that training. The whole training thing would be a lot easier for the Standards Board.

Q84 Christine Russell: Earlier you made an interesting observation that this huge volume of complaints that has emanated since the establishment of the Standards Board, particularly regarding parish councils, is perhaps explained by the fact that there is no ombudsman in office in parish councils. Ms Edila, would you go along with that explanation, or do you have other explanations as to why there has been a huge volume of complaints about parish councils or councillors?

Ms Edila: I would not necessarily say that the lack of access to an ombudsman is the primary reason for that. When the code of conduct was being adopted and the Standards Board being set up, the monitoring officers locally did raise the issue about the large volume of complaints likely to be received, and whether the Board would be able to manage. From my experience, that is clearly because there is

a degree of misunderstanding about the role of members in service delivery, and that would invariably lead to complaints being made.

Q85 Christine Russell: Why should that apply to parish councillors more than to district councillors or county councillors or any other councillor?

Ms Edila: Some of the experiences that my members, the monitoring officers, have had, at the metropolitan, unitary London level, is that there is a much greater awareness and promotion of the ethical framework amongst the members in those authorities.

Q86 Christine Russell: Are you saying there is more corruptness at the parish level than there is at the metropolitan level in—

Ms Edila: Not at all.

Q87 Christine Russell: What are you trying to say?

Ms Edila: The understanding amongst those who are complaining about the behaviour of parish councillors—

Q88 Christine Russell: So people living in rural areas are more ignorant of procedures of local government—is that what you are saying? I am trying to pin it down.

Ms Edila: That is absolutely fine. It is the level of information available about the way things operate, which perhaps may not be as open in terms of access to information. If you take the London level, members of the public are attending council meetings and are aware of the way things operate. We have had difficulties in promoting the Code more locally in parish councils. We have had more resistance to signing up to the code of conduct amongst parish councillors, which has led to far more complaints at that level. There have been a lot of issues around declarations of interest and a willingness to accept obligations to declare interests in parish councils. These have been challenging issues, rather than any real corrupt practice or failure to comply. It is simply the lack of awareness and lack of understanding which is where I think more work needs to be done.

Q89 Christine Russell: Where do you point the finger of blame—at the people doing the complaining, or the people being complained about?

Ms Edila: I would say that we all had a responsibility, as members and officers within local government, to seek to highlight and address some of those issues to raise awareness. I would certainly not say necessarily it was a problem for those who are complaining, because if there is a greater understanding of the process—

Q90 Christine Russell: So it is not a problem with the parish councillors and it is not a problem with the local people who are alleging complaints; the problem is with local officials who are not explaining well enough what the code of practice is.

6 December 2004 Mr Tim Ricketts and Ms Gifty Edila

Ms Edila: I believe we can do more work. Certainly my association is looking at developing things like corporate governance as a step in the right direction, to try and raise awareness of the obligations, because that is missing; there is a lack of understanding that there is a clear obligation to comply with the code.

Mr Ricketts: Can I address the number of complaints issue? Quite often we hear about the huge volume of complaints about parish and town councils, but it is disproportionate with all those kinds of words. The figures do not really demonstrate that. At the end of the last financial year the Standards Board received just over 3,000 complaints about parish and town councils, and they investigated 29% of those, so roughly 1,000, in relation to 60% of which no further action was taken. In 20% there was no evidence of breach, and in relation to 20% some action was taken as a result of the complaint. Although that is number-crunching, you start off potentially with 80,000 people who could be subject to a complaint from a member of the public, but when you talk about a thousand being investigated more than half of which had no further action, I am not sure that we are talking about disproportionality or a huge number. We are starting off with a huge number in the first place. It may be that the Standards Board and other associated bodies quite understandably did not appreciate the number of local authorities that they would be dealing with and the potential number of complaints that could come forward; but if we use words like “disproportionate” and “huge” it may give a slightly wrong kilter to what is happening.

Q91 Chairman: You mentioned earlier that leaders in parish councils or individuals in parish councils could be involved in all sorts of different activities. Is it not also a concern that in quite small communities you get a lot of people related to other people, so it might be a worry that the planning application affects the parish councillor’s Auntie Flo’s back garden or something? Is it realistic to apply all these standards to every little parish?

Mr Ricketts: I am sure there are very small parish councils where the code of conduct almost meant that nobody could say anything at any meeting, which may be extreme. I am sure some people interpret the code as a means of preventing some people from speaking, whereas it is a method of allowing people to speak but given certain limitations. There tends to be a very negative portrayal of the code of conduct, whereas when you really look at it quite closely, it allows people even within small communities to say and do no more or less than they were doing previously. It tends just to be when there are perhaps financial considerations in relation to some club that they are supporting or are a member of; and when that comes before the parish council, quite rightly they should not participate in deciding whether to give that particular organisation some money. However, it is not quite as restrictive as people always think it is, on closer inspection, although there is some confusion on how to interpret parts of it—I grant you that. That is the way we should apply it across the board.

Parish councils of any size have the power to precept, which means they could go to their local population and ask them, in theory, for a limited amount of money on an annual basis, and they are not subject to any limits or capping. As soon as you have an elected body that is able to tax its local population, you have to expect the code of conduct to apply to those authorities, even if they are very small.

Q92 Chairman: Are you worried that the structure of the code might affect the ability to get people to come forward and stand as candidates?

Mr Ricketts: It has not been the experience in our view. Initially, there were people who decided they did not want to work under a code of conduct, which I found quite odd because they were working under a code of conduct previously, although maybe it was not as clear as the existing code. There has not been a decline as far as councils themselves are concerned. There have been 300–400 new parish and town councils formed since 2000. Those are made up of councillors within their communities. Although it may have happened in certain small parts of the country, the general statement I do not think is a disincentive at all.

Q93 Andrew Bennett: How much time do you think someone on the town or parish council should spend on being trained for this sort of thing?

Mr Ricketts: That is a very good question! It is quite hard to think. If I can explain how our organisation works, parish and town councils affiliate to county associations, and through that they affiliate also to national associations, so it tends to be on the whole the county associations that provide training, as well as other bodies, to parish and town councils. They would invite members along to training of one sort or another on a monthly or bi-monthly basis that is not always code of conduct related. If the county association invited member councillors along on an annual basis to have training on the code of conduct, that would be acceptable. Sometimes, it is not the courses being available, but it is getting people along to those courses. With councillors—certainly whenever I address an audience, you are almost preaching to the converted. It is the people that do not attend courses that you need to get in front of you, not those who turn up.

Q94 Andrew Bennett: Mr Mussett, in the first session, made it clear that it was a major problem that a lot of councillors did not participate. Do you agree with that?

Ms Edila: To add to what my colleague has said, there are a variety of methods whereby we aim to provide training. Clearly, induction of newly-elected members is our first target group. There are a series of seminars over the course of the year. We have had quite a lot of new legislation, which provides an additional opportunity—the Planning and Compulsory Purchase Act—to train members on dealing with the code in determination of planning applications, and likewise the Licensing Act where there are ongoing seminars. We tend to look at that.

6 December 2004 Mr Tim Ricketts and Ms Gifty Edila

It is more difficult to attract the more experienced members to the regular ongoing seminars. It is ideal to aim for the annual conferences in addition to the new areas of legislation where there will be a more direct focus in terms of the level of their interest, because it is on those major committees where they need to be mindful of the operation of the code. That is the way in which we aim to ensure there is an ongoing programme of training and development.

Q95 Andrew Bennett: You think the amount of time you demand people to do the training is reasonable, given responsibilities to spouses and to families, and the need to get round and talk to the electorate.

Ms Edila: I would advocate that our experience is that the training programme and the frequently of availability is reasonable. The new members will clearly need more training initially, and they welcome that approach. The more experienced members tend to focus training in relation to new legislation, and the way we tend to programme for those tends to work reasonably well.

Q96 Andrew Bennett: Should those who do not turn up be penalised?

Ms Edila: One of the ways we have aimed to address that is to enshrine it in the various constitutions—for example if you have not been trained on planning and code of conduct, you cannot sit on that particular committee. That tends to incentivise members to attend the training.

Q97 Andrew Bennett: But I can go to a meeting and take no notice of what is going on at all, so how do you prove that I have been trained?

Ms Edila: That is a difficult one. One could only hope that in terms of your understanding of compliance with the code—

Q98 Andrew Bennett: Do I do a test, then?

Ms Edila: Not at all; we do not test members. It is performance at committees; and certainly my members, the monitoring officers attending committees, have an overview of the extent of members' awareness and application of the code. Clearly, where there are difficulties you would ensure that you provided that particular member with additional support and guidance.

Q99 Mr Betts: Should all members who have been complained about receive information about the complaint before it is sent for investigation?

Mr Ricketts: My personal view is that if a complaint has been received about somebody, then the person being complained about should be advised by the Standards Board at the moment the complaint is received. They will be able to tell them more in due course. I cannot see any fairer way of looking at it.

Q100 Mr Betts: Have you had any complaints that that has not always been the case, that members had found out they had been complained about through members rather than procedures?

Mr Ricketts: It has been brought to my attention on a few occasions. Sometimes it may suit individuals to say this is the first time they have ever heard of this, when a closer inspection may reveal that that is not the case. Sometimes it may be that the correspondence from the Standards Board did not arrive at the door of the person complained about. It is isolated cases; it is quite rare for people to first hear about it through the local press, but it has happened on occasions.

Q101 Mr Betts: There have been one or two remarks that the whole process is the wrong way round: instead of everything going to the Standards Board and then pushing most of it back to the local level and dealing with a case at the centre, if the complaints initially were made to the various local committees and then filtered up to the Standards Board where they were serious, that would be more effective.

Ms Edila: That is certainly our view, which we have held from the outset, before the adoption of the code and the current procedures. Lots of the issues should be dealt with locally in view of our earlier comments about lack of understanding or where you need simple local resolution—perhaps a change of procedures overall—and also because of the large number of fairly trivial matters. We believe the Standards Committee does have a role. We have highly experienced councillors as well as independent members who are able to manage the process locally. They could refer to the Standards Board for England the more serious matters.

Q102 Mr Betts: Is there a concern that the public may not have much confidence in the system, and that sometimes at local level there can be pressure put on to stop serious cases being referred on?

Mr Ricketts: Initially there was a concern with parish and town councils that if the standards committees were the bodies investigating the parish and town councillors, then politics could come into it, and there may be a feeling that there was not sufficient impartiality for that to happen. That has shifted somewhat now, and I think because of the time it takes for the Standards Board to go through everything that they receive, there is quite a bit of sympathy for going to a local level first of all. We could even have a system of sorts where matters were filtered even before that, and when matters could be subject to some conciliation procedure. I am not sure how you go about doing that. I believe that you should keep things as simple as possible—because every time we do something it seems as though we are adding another layer of people to go through, and by the time you have two or three layers the public just think it is another layer they have to go through in order to have something heard. I have a lot of sympathy with starting matters off locally and then moving up nationally to the serious matters.

Ms Edila: Can I address the reverse of the question? Some of our experiences—and I must emphasise

6 December 2004 Mr Tim Ricketts and Ms Gifty Edila

that we do not have any empirical evidence to support this—are that monitoring officers have indicated that people have approached them to make complaints locally, but once you tell them that

it has to go to a national body, that is the end of the complaint, and complainants are reluctant to take that information to the national body.

Chairman: Thank you very much for your evidence.

Witnesses: **Sir Jeremy Beecham**, Vice Chairman, **Ms Chloe Lambert**, Deputy Chairman, and **Mr Roy Williams**, Head of Member Services, Local Government Association, examined.

Q103 Andrew Bennett: Has the Standards Board been a success? Has it raised standards in local government, or has it increased the public's view that there is some corruption in local government?

Sir Jeremy Beecham: I do not think it has raised standards. I think it has contributed to raising public confidence in local government. There is no evidence to suggest there is any significant problem with corruption in local government and of course the Board is not dealing with corruption in the criminal sense because that would be a matter to be pursued by the courts. As the Committee of Standards in Public Life has pointed out on more than one occasion, standards in this country are generally very high, and that is true of local government. In the relatively small percentage of cases where a finding has been made, they have been subjected to a full investigation.

Q104 Andrew Bennett: Is it a big bureaucracy that could be got rid of?

Sir Jeremy Beecham: No, I think it is important to retain the structure, working perhaps more quickly than it has been able to do in the past, and it is seemingly more effective as the regulations have now come into force and resources are made available. It is important to have an independent structure to deal with the issues as they arise. I do not take the view that some people do that this is an unnecessary bureaucracy. That is not the Local Government Association's position, although we do think its ways of working might be improved—and hearing the last witnesses, that view is not restricted to us. A local gateway might be a better way of filtering some of the claims, but subject to that it has an important part to play. It is not necessarily the only body that needs to be concerned. There is a responsibility on political parties in particular to be active in promoting high standards and dealing with those who transgress them.

Ms Lambert: I think the Standards Board has been a success in terms of raising awareness of the need to have a code of conduct and a certain standard of behaviour. The delays we have heard about, which are not being addressed by more local determination, have been the main cause for complaint amongst our members.

Q105 Christine Russell: Can I ask you for your views on compulsory training for elected members on the code of conduct, perhaps especially for those members that serve on committees involved with planning and licensing?

Ms Lambert: It is essential. I do not see how people can do their jobs as elected members, particularly on those two committees, without the necessary training. I see it as part of any necessary induction when you are first elected to a council, but also you need regular refresher training to keep yourself up to date. The important part about it is that if you are trained, then, again, you are giving more public confidence in the work that councillors do.

Sir Jeremy Beecham: I agree with what Chloe has just said, that one needs to be proportionate. It is essential for members of principal councils to have training, but it is not absolutely necessary to train 80,000 parish councillors to the same extent—though maybe the chairs of parish councils should receive the training.

Q106 Christine Russell: As an organisation, has the LGA collected any evidence of the contribution of the lack of training to submissions to the Standards Board?

Sir Jeremy Beecham: No. I am not sure what the Standards Board reports back, as it were, apart from the numbers of cases dealt with. There are records of some decisions, but I do not think we have trawled through those, and if we did I am not sure it would show training as a particular feature in the cases that go there.

Ms Lambert: I think it is important that the Standards Board does offer more in the way of training and guidance to local councillors. I am particularly thinking of the introduction of the new licensing responsibility on local authorities.

Q107 Christine Russell: What form do you think that should take?

Ms Lambert: It needs to be in all sorts of different forms. I heard today, when I was receiving some licensing training myself, that there is going to be an interactive DVD on licensing hearings, which I am sure will be a best-seller! You need different sorts of training—role-playing as much as anything in that particular case.

Q108 Christine Russell: The difficulty is, as we heard earlier this afternoon, that there are still a high percentage of parish councils that are not even connected to the Internet.

Ms Lambert: I understand that, and that is why it needs to take different forms. Also, you need to work with local authorities, the principal authorities, to liaise with their parishes.

Sir Jeremy Beecham: Training is not necessarily to be confined to elected members. One of the problems that sometimes arises is the excessive caution on the

6 December 2004 Sir Jeremy Beecham, Ms Chloe Lambert and Mr Roy Williams

officer side, where, frankly, a more common-sense and robust view might well be more helpful to members. As it is, sometimes extremely cautious advice is tendered and effectively pressure not to participate, when it would be perfectly legitimate for them to do so. We think that clearer guidance from the Board, and perhaps more training for monitoring officers and others would also be relevant.

Q109 Chairman: Is the LGA confident that the Standards Board understands subtleties of planning law sufficiently in terms of their judgments where allegations have been made in that sort of arena?

Sir Jeremy Beecham: I would hesitate to comment on the judgments they have made. We do have fairly regular contact with them, but we do need to make clear that one has to use common sense in these situations, and in turn they should make that clear. I think it would be wrong to comment on the outlook of particular cases.

Ms Lambert: I think there is still a need for further training and guidance with specific examples of scenarios presented to those who are receiving the training about declarations and interests, particularly where a member is two-hatted.

Mr Williams: There is also a third element in training, and perhaps a feature that is coming more to the fore, which is any training or guidance that needs to be given to members of standards committees locally where they are now going to be able to undertake investigation and adjudication. Until now they have not been able to take forward the investigation element, but the regulations have been recently put in place. There may well be a need for a certain amount of training and guidance on how to conduct that sort of investigation and adjudication, to ensure a consistency of approach across the country.

Q110 Mr Betts: Should all individuals who are complained about be made aware of the complaint against them before a decision is made to carry out the investigation?

Sir Jeremy Beecham: I would have thought so, yes.

Ms Lambert: It is only fair that there should be.

Q111 Mr Betts: We have had complaints that there have been occasions when the individual complained about first read about it in the local press.

Sir Jeremy Beecham: Absolutely wrong.

Ms Lambert: It is quite wrong.

Sir Jeremy Beecham: There is a concern about publicity. The Board is clear that there should not be publicity until the matter is adjudicated on. Sometimes there are leaks and sometimes a deliberate move to embarrass people. I am surprised, frankly, if it is the case that complaints have been made and members not notified.

Q112 Chairman: Do you think the whistle-blowing protection would be compromised if the member making the complaint were named during the investigation?

Sir Jeremy Beecham: There are a number of issues around whistle-blowing. I do not think it is necessary to identify those who make the complaint. We are rather more concerned about the duty that is imposed on elected members—

Q113 Chairman: The Clause 7 rule?

Sir Jeremy Beecham: Yes, to blow the whistle, as it were, and a failure to do so in itself of course becomes a breach. We think that goes too far and is unnecessary.

Ms Lambert: It would also tend to lead to more vicious or vexatious claims, which could be made for political reasons for instance.

Q114 Andrew Bennett: On the question of publicity, it is quite a ploy, is it not; that you complain to the local papers that you are going to make a complaint to the Standards Board in March just after somebody's nomination has gone in, and sometime the following March some adjudication says there is no case to answer? What should you do about that?

Sir Jeremy Beecham: We have argued that the committee of standards and the Standards Board—a disclosure of that kind should itself be a breach and it should be capable of being adjudicated upon by the Board. In other words, it should be an offence to disclose a complaint.

Q115 Andrew Bennett: If you were a councillor it would be an offence, but if you were just a member of the general public it would not matter, would it—or if you were a candidate?

Sir Jeremy Beecham: No.

Q116 Andrew Bennett: Particularly if you were not expecting to be elected.

Ms Lambert: It is extremely difficult to legislate against such cases.

Sir Jeremy Beecham: You cannot stop that.

Q117 Andrew Bennett: No, but you could say that if people seek publicity for their complaint, the Standards Board would not investigate, and that would be a pretty firm way in which you could stop that sort of abuse.

Mr Williams: That might be a little difficult because that pre-supposes that the complaint is vexatious and does not necessarily warrant investigation.

Q118 Andrew Bennett: So it is all right if you receive publicity for a genuine complaint; it is only wrong if you get publicity for a vexatious complaint.

Sir Jeremy Beecham: I am not sure that Mr Bennett has not touched on a rather good idea, actually!

Mr Williams: The other function of that is that time has been taken up to now to investigate.

Q119 Andrew Bennett: So there is this problem about publicity beforehand. What about publicity for the council on the website when a decision has been reached? Should they go on to the website, found guilty or found . . .

6 December 2004 Sir Jeremy Beecham, Ms Chloe Lambert and Mr Roy Williams

Sir Jeremy Beecham: They should certainly go on if found guilty because that is regarded as an issue of public confidence; and if they wish they could go on if they are not guilty, but that must be a decision for the individual council, which may well wish to go public, but on the other hand it may wish to let the matter lie.

Q120 Andrew Bennett: Is there any evidence that it is discouraging people coming forward to go on to councils? Do they think it is bureaucratic and difficult to cope with?

Sir Jeremy Beecham: I am not aware of that in principal councils. There was a suggestion, and I do not know whether it still holds, from parish councils that it would deter people, and it is alleged that it has led to a number of people resigning from parish councils in the early days. I do not know whether that remains the case.

Ms Lambert: In my experience people are more put off by completing the register of interests than by the code itself.

Q121 Mr Betts: There has been criticism of the Standards Board that it takes far too much time looking at its own procedures, spending money on glossy brochures, and promoting various aspects of its work, rather than dealing with the complaints that were being sent to it. Was that fair criticism?

Sir Jeremy Beecham: I do not think it is entirely fair because they had a problem with inadequate numbers of staff to begin with, and, as it later turns out, difficulty procuring the necessary regulations to cover part of their work. In any case, it is probably important for them to establish a profile, as it were, in setting up shop. In any event, I think that that is in the past and we are now certainly seeking to concentrate on turning round cases quickly. It is a fair point, as Mr Williams said, that they should be looking as closely at guidance and training and preventative aspects of their work as well as dealing with cases, and hopefully the caseload will drop as matters are referred to the Standards Board.

Q122 Mr Betts: Is it your experience that things are getting better? Last year it was pretty awful, was it not? One of the key figures I saw was that their target was to deal with 90% of their serious investigations in six months, and in fact over half of them, were taking over six months.

Sir Jeremy Beecham: It is worse than the average planning authority.

Ms Lambert: It is unacceptable, but it is getting better.

Q123 Chairman: Previous witnesses have given their views on the role that the local standards committees are taking in filtering through the Standards Board, which is slightly different from the way in which things are operating at the moment. Do you think that would be any better, or are there risks in that?

Ms Lambert: I think it would be helpful, but I think it is more that the complaints need to start off at local level, rather than go to the Standards Board and then come back local authorities. They need to start off, because so many of these, particularly where they are vexatious or political, could be eliminated before the need to go to the Standards Board, if they were dealt with—

Q124 Chairman: Is that not equally the worry that some of the valid ones might be eliminated before they got to the Standards Board?

Ms Lambert: It would not be a worry that I would have.

Q125 Andrew Bennett: A good city boss in the past would have sorted them out.

Sir Jeremy Beecham: One tries!

Q126 Chairman: In terms of the guidance on the code, there had been a worry in the past about people that had been appointed by councils to outside bodies not being allowed to speak on matters concerning those bodies. Has that been resolved in more recent times?

Sir Jeremy Beecham: I am not sure it has. I have a current case in my own authority, where there is an issue around a city academy. A member is appointed by the authority to chair a governing body of an existing school, and she has been advised that she has a prejudicial interest and should not even attend a scrutiny committee, let alone an executive committee. This is an area where there does need to be clear and more robust guidance.

Q127 Chairman: Is that local advice?

Ms Lambert: Yes, and lawyers—as I am declaring my interest—are inclined to be somewhat over cautious.

Q128 Chairman: That is the concern that has been expressed, and I thought the Standards Board had said they had tried to resolve it, but it is a question we can put to them.

Ms Lambert: Further guidance needs to be given, particularly to those who are asked to be a trustee of an outside body. We are always advised on my authority not to be a trustee because of the legal implications of it, but I know that other authorities do not receive the same advice.

Chairman: Thank you very much for your evidence.

Monday 17 January 2005

Members present:

Chris Mole, in the Chair

Andrew Bennett
Sir Paul Beresford
Mr Clive Betts
Mr John Cummings

Mr Bill O'Brien
Christine Russell
Mr Adrian Sanders

Witness: Mr Steve Bundred, Chief Executive, Audit Commission, examined.

Q129 Chairman: Good afternoon, and welcome to the second session of the Urban Affairs Committee's inquiry into the role and effectiveness of the Standards Board for England. Would you identify yourself for our record, please?

Mr Bundred: I am Steve Bundred, the Chief Executive of the Audit Commission.

Q130 Mr Cummings: Could you outline for the Committee your current relationship with the Standards Board for England, please?

Mr Bundred: Both ourselves and the Standards Board have an equal interest in ethical governance issues. The Commission has a long-standing interest, and indeed we published a report on corporate governance last year. It is also the case that many of the issues that give rise to complaints to either body may be made, and frequently are made, to both of us. There was therefore a recognition quite early in the creation of the Standards Board that the Board and the Commission needed to work closely together. That recognition was reflected in a memorandum of understanding, which was agreed between us early last year. It set out the arrangements for information-sharing and cross-referrals where matters that come to either of our attention are more appropriately dealt with by the other party. We have been working very closely with the Board to build on that relationship since then.

Q131 Sir Paul Beresford: Would it make sense if the two were put together?

Mr Bundred: That would be a matter for Parliament to decide. The point that I obviously would make is that the Standards Board has powers and deals with issues that are beyond the powers that our auditors have and beyond the issues that auditors have traditionally dealt with.

Q132 Sir Paul Beresford: They could be combined—that is the implication.

Mr Bundred: It would be a matter for Parliament to decide whether they should be combined. Whether it will save duplication or not is a separate issue because, as I said, the Standards Board deals with matters other than the matters that have traditionally been dealt with by the Audit Commission.

Q133 Mr Cummings: How well is the memorandum of understanding working?

Mr Bundred: The honest answer to that question is that it is working very well at the national level. At the most senior levels the relationship between the Commission and the Board is a close relationship and working very well. I think both organisations need probably to do more to ensure that there is better joint working at the local level. We have both come across instances where the degree of information sharing at the local level has not been as great as we would hope it might be.

Q134 Mr Cummings: How do you intend to achieve these improvements?

Mr Bundred: Certainly within our own organisation we need to do more with our auditors to ensure that they understand the requirements upon them that are imposed by the memorandum of understanding, and the auditors need to be more proactive when issues come to their attention in which the Standards Board might have a remit, to ascertain whether action has already been taken by the Board on those issues, and indeed whether the Board is aware of them.

Q135 Mr Cummings: Has the Standards Board acknowledged its deficiencies and is it moving towards improvements?

Mr Bundred: That is a question best put to the Standards Board, but we would be in agreement with the Board that both organisations need to do more to make a reality of the memorandum of understanding.

Q136 Mr Cummings: If you are both working towards a common aim, then obviously you must have accepted, and the Board must have accepted that some—

Mr Bundred: As I said earlier, at the most senior levels the relationship is very good, and both organisations would agree that that close relationship needs to happen just as effectively at the local level, and more needs to be done by both organisations in that regard.

Q137 Mr Cummings: You are saying that there is room for improvement in the relationship between the Audit Commission and the Standards Board. Can you give the Committee something positive as to how this will be achieved? What positive measures do you intend to take?

17 January 2005 Mr Steve Bundred

Mr Bundred: We will certainly be reminding our auditors of the need to ensure that when issues come to their attention for which the Standards Board also has a remit, or indeed may have the primary focus, then those matters should be shared with the Standards Board.

Q138 Chairman: Does that mean that your auditors would be under an obligation to make the referral if they found something inappropriate?

Mr Bundred: They are required to do that by our memorandum of understanding, and it happens in many instances. Our concern is that it may not be happening in every instance, and we will be reminding our auditors of the need to ensure it happens in every instance.

Q139 Mr Cummings: In your written evidence you stated that you would be looking at closer links between the comprehensive spending performance assessment and the code of conduct. Can you tell the Committee what stage this is at?

Mr Bundred: Currently, we have proposals for a fresh approach to comprehensive performance assessment which will be introduced from later this year onwards. Those proposals are currently out to consultation, and the consultation is due to end on 18 February. We will then obviously assess the responses that we have received.

Q140 Mr Cummings: Are you doing anything else with the Standards Board to promote ethical governance in local government?

Mr Bundred: Yes, we are doing quite a lot of work jointly with the Standards Board. We have a diagnostic toolkit which was developed within the Commission but which is being jointly badged and promoted by both organisations. We have 34 local authorities at the present time that have said that they would like to make use of that tool. We are also engaging with other bodies with a similar objective, principally the Local Government Ombudsman and CIPfa and the Improvement and Development Agency for Local Government. There is a steering committee of all four organisations which meets regularly to take that work forward. We have contributed to the annual conference that the Standards Board runs for members of standards committees, and we have jointly contributed to events that have been organised by individual local authorities, such as training events for their standards committees and often for their senior staff members.

Q141 Mr O'Brien: How broadly has the consultation exercise been extended?

Mr Bundred: The consultation on our comprehensive performance assessment is a very wide consultation. It has been run in parallel with a separate consultation on joint area reviews of children's services because the intention is that comprehensive performance assessment will inform and be informed by joint area reviews of children's services, so the existence of the consultation is very widely known in local government. It is not just a

consultation in which we have invited people to respond in writing; there have also been a number of events. Indeed, there was an event in London only today where we were anticipating of the order of 150–160 people would attend.

Q142 Mr O'Brien: Do the stakeholders get involved?

Mr Bundred: The stakeholders get involved both through those events, and there are smaller events also. Indeed, I have a meeting tomorrow morning with a number of local authority chief executives and other stakeholders. There will be other similar events for local politicians to share views with us, and of course they will respond, as authorities, formally in writing during the course of consultation. The consultation document was launched in December. The consultation period runs until 18 February, so it is an extensive consultation running over a couple of months.

Q143 Christine Russell: In your opinion, do you think one of the reasons why the Standards Board struggled to cope in the beginning was because they just were not prepared for the huge number of complaints that were launched?

Mr Bundred: That is probably a question best put to the Standards Board. I am not in a position to know how well prepared they were for the volume of complaints they received. I do not think I was personally surprised by the volume of complaints, and I do not think others with good knowledge of local government were hugely surprised by the volume. Once the decision had been taken to extend the remit of the Standards Board to smaller authorities, then inevitably it would cover a much larger number of local authorities and was going to give rise therefore to a larger number of complaints.

Q144 Christine Russell: You think that that should have been planned for, the extension to include town and parish councils; that it should have been possible to predict that there would have been this huge workload created by complaints against those two types of organisations.

Mr Bundred: I do not know whether it was predicted within the Standards Board. That is a question you would need to put to representatives of the Standards Board. I would say that it was predictable that there would be a large volume of complaints, and certainly it appears from all the evidence that the Standards Board did struggle in its early days. Our experience is that it is now getting very much more on top of those problems, and the changes that have been made in the regulations will help in that regard, and are very welcome.

Q145 Mr Betts: Is not the problem that everything has to go to the centre before even a relatively minor complaint is passed down and dealt with locally? Would there be some merit in doing things the other way round? Some of our witnesses have said that initially the complaints should be sent

17 January 2005 Mr Steve Bundred

locally, and if at local level it were deemed to be a serious matter, within guidelines, it would be passed up to the Standards Board.

Mr Bundred: The answer is that there are powerful arguments both for and against that. If there were a local filter, it would be able to draw on local knowledge and give local authorities the opportunity to put their own house in order first; and it would no doubt be more cost-effective. On the other hand, however, one of the purposes of the Standards Board is to ensure public confidence in standards in local government, and the independent assessment at first instance is one of the elements that provides that public confidence. It is also true that there would no doubt be some degree of inconsistency if there were local filtering, and there is no doubt therefore a risk that initial local filtering could make it more difficult to deal with certain types of allegations. The honest answer is that I do think there are strong arguments both for and against, and there are different views on that matter even within the Audit Commission itself, and possibly within the Standards Board for all I know.

Q146 Mr Betts: What would your advice be about the best way to operate?

Mr Bundred: At this stage, while the Board is new and the code of conduct and the governance framework is new, having the entirely independent element at the outset of the investigation process is probably the best approach. It may well be that as local standards committees become more embedded and more effective and there is a better understanding within local government of the kinds of standards of conduct that are and are not acceptable, and as public confidence in those standards grows, then it might be possible to take another look at it at some future stage. At the moment, my inclination would be to stay where we are.

Q147 Mr Betts: Have you noticed any improvement since early November when there were new guidelines issued by the Board about dealing with complaints locally? I understand as well that the Board's ethical standards officers can now refer matters to monitoring officers locally. Has this improved the situation or have you limited experience of that so far?

Mr Bundred: It is probably early days to observe improvements arising directly from those changes. Our experience is that cases are being dealt with more quickly now within the Board than when it first came into existence, and there does seem to be some evidence that the backlog of cases is being cleared.

Q148 Andrew Bennett: Do you think the code of conduct is satisfactory or would you recommend a few changes?

Mr Bundred: I do not have a problem with the code of conduct itself. I think it could say a little more than it does about relations between members and officers, but I think it is broadly satisfactory.

Q149 Andrew Bennett: What should it say as far as members and officers are concerned?

Mr Bundred: Local government only functions well when relations between members and officers are relations of mutual respect, where the roles of each are very clear, and they respect each other's roles as well as respecting each other personally. The code of conduct could emphasise that point slightly more than it does currently. If I may go on, it is not so much the code of conduct that I would want to see changed. When looking at the aspects of corporate governance as a whole, perhaps we could look at some other elements of the arrangements and some aspects of the way in which the arrangements are supported.

Q150 Andrew Bennett: What about the whistleblower clause; is there not a problem with that? A former leader of the Labour group admitted to me at the first session that on more than one occasion he had had to take disciplinary action against one of the members of his group, not over voting but over behaviour. It is a bit difficult for groups to run a strict regime in relation to behaviour if in addition to criticising someone they have to automatically report him to the Standards Board.

Mr Bundred: I do not have a problem with that particular clause. The purpose of that clause in the code of conduct is, again, to give confidence to members of the public that wrongdoing will not be covered up. There are parallel clauses in many of the provisions governing local authority staff, where wrongdoing or impropriety is suspected it should be brought to the attention of the proper authorities. I would hope that local authority members would also want to regard themselves as exemplary in that respect.

Q151 Andrew Bennett: If a rumour is circulating about the behaviour of a particular individual, although you have no proof that it is true, you have a duty to report it.

Mr Bundred: I think there is a difference between a rumour and a well-founded suspicion.

Q152 Andrew Bennett: But if you are running a tight ship as far as the leader of a group is concerned, it is perfectly reasonable to act on the basis of a rumour, is it not? You think that disciplinary action within the group on the basis of a rumour would be their function, and only if it became well-founded would they have a duty to refer it on.

Mr Bundred: You would need to give me some specific examples of occasions when, within a political group, action was being taken on the basis of not being more than a rumour. I would hope that justice and the principles of justice, would apply within political groups as well as within local authorities and corporate bodies. It seems to me that one of the principles of justice is that there should be a good reason before action is taken against individuals; and a rumour is not necessarily a good reason.

17 January 2005 Mr Steve Bundred

Q153 Andrew Bennett: If it is going to be fair under the code of practice, is it not important that the person who makes the complaint gets at least the same level of publicity as the person who is complained against?

Mr Bundred: Giving publicity to complainants might well deter complainants from bringing concerns to attention in some instances. The same principles apply to whistle-blowing more generally. I would not want to see a situation in which the identity of the complainant automatically became known, even before the substance of the complaint had been assessed.

Q154 Andrew Bennett: When you are doing the comprehensive performance assessments how far do you take into account whether councillors attend training or not? Should people be trained in terms of their ethical duties as councillors?

Mr Bundred: In the current comprehensive performance assessment we have not emphasised that issue particularly but under the proposals that we are currently consulting upon, an element in the criteria by which we will assess the effectiveness of how well a council is performing will be issues around, for example, whether the standards committee is proactive in promoting and maintaining ethics, and is respected and effective within the council more generally. We would expect that councillors, through the work of the standards committee would understand their responsibilities in this respect, and we would expect to see some evidence that the standards committee was proactive in informing them.

Q155 Andrew Bennett: Would you expect that to be in terms of people attending training sessions, or merely that they have been provided perhaps with examples of what is ethical behaviour?

Mr Bundred: We would not want to be overly prescriptive in the way in which authorities dealt with this issue. There are different approaches, which might be equally effective in different

circumstances, and also depending upon the way in which the authority organised its affairs. I would be disappointed to discover that there was an authority where training had been provided that members did not participate in.

Q156 Andrew Bennett: Is that not a bit naïve? Councillors are still not expected to be full-time, are they?

Mr Bundred: No, they are not expected to be full-time.

Q157 Andrew Bennett: So if you get elected there is a limit to how much time you can commit to training.

Mr Bundred: That is true, but there are many local authorities where, for example, in relation to licensing or planning matters members are not allowed to participate in the relevant decision-making processes unless they have also participated in the relevant training. I see no reason why these wider aspects of governance should be any different in that respect.

Q158 Mr Sanders: This is a general question, and I would ask you to look at this through the eyes of an auditor. Given the annual budget of the Standards Board plus all the other costs that are incurred locally, does the output of around 40 sanctions a year represent best value for taxpayers' money?

Mr Bundred: I am afraid I do not know what the annual budget of the Standards Board is, so I do not feel able to answer that question.

Q159 Mr Sanders: Should you not know?

Mr Bundred: We work with the Standards Board but we do not audit them.

Q160 Mr Sanders: Should not somebody audit that process and output?

Mr Bundred: That is a question probably best put to the National Audit Office rather than the Audit Commission.

Witnesses: **Sir Anthony Holland**, Chairman, **Mr David Prince**, Chief Executive (and Accounting Office), and **Mr Paul Hoey**, Head of Policy and Guidance, Standards Board for England, examined.

Q161 Mr Betts: Your start was hardly a glorious success, was it, if you look at the targets that you were set or set yourselves and your achievements? To pick one out, for the percentage of cases referred to investigation that were completed within six months, the target was 90% and performance was 38%. Why is that?

Sir Anthony Holland: That is a perfectly fair comment, but I think it is right that I should give an explanation as to the background. We were set up in March 2001. It was a completely new process, dealing with the integrity of politicians. That demanded, in my view, a very careful approach. I was a lawyer in the past, and the one thing I wanted to avoid at all costs was a judicial review that attacked the process that we went about

investigating complaints that we received and the eventual outcome of complaints. The over-arching demand I made therefore of the staff was that they should do nothing that could in any way be challenged at judicial review. To the extent that we have never been successfully challenged at judicial review, I think that is a great success. The second thing of course was that the legislation was flawed in two respects. The first was that we had not been given the power to delegate complaints when they came in, so the Board was forced to meet every week for something like 18 months to look at every single complaint that came in to decide whether or not it should be referred. That in itself slowed things down because unfortunately referrals had to go through a certain process, and it had to be

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

passed to the Board for it to make its weekly meeting decision in that context. The third aspect was that because we were starting from scratch, there was no precedent for this kind of body. We had to recruit people who had the ability to do a certain number of quite key tasks. One was to investigate and the second was to make a decision as to whether or not that should be taken further; and the third was to do it on the basis of best legal advice. Unfortunately, we have been located in London, and the consequence of that was that it meant we had to recruit people, with great difficulty on our part given the salaries we could offer. Therefore, our recruitment process took far, far longer than we ever anticipated, and indeed we only got up to full strength last July. We had difficulty in recruiting the ethical standards officers, ESOs, to begin with, because we could not offer sufficient money. We had difficulty recruiting a full legal team because we did not have the ability to compete with the salaries that lawyers can attract in London. All those together made it very difficult for us to operate at full strength from the word "go". There was a final problem. We had no real idea of what kind of complaints we were going to get, whether they would be serious complaints coming in from the heavier authorities, the county councils, or whether they would be the less serious but nevertheless complaints that came in from parish councils. There are 8,900 parish councils, but nobody knew that until we compiled the first list. The volume of complaints was what we expected, or very nearly, but the kind of complaint meant that the investigation process was far more complex than anticipated. Why was that? It was because when you get complaints from parish councils they are nothing like as easy to investigate as they are if they come from county councils, which have resources available to individual councillors. Parish council investigations can be quite tricky and quite personalised, and very often involve basically neighbourhood disputes. That is an explanation, and it is the best I can do in all the circumstances.

Q162 Mr Betts: Are you now on track to get rid of the backlog by April 2005, and to hit the six-month target?

Sir Anthony Holland: Yes, we are.

Q163 Mr Betts: Have the new regulations, which now allow reference by one of your ethical standards officers to local authority level, speeded up the process?

Sir Anthony Holland: It has to some extent so far, but it is early days. The first tranche of regulations came in in June 2003, which allowed us to refer investigations which are concluded for determination of the sanction to the local standards committee. The second tranche only came in in November, and we have only had 25 to 30 cases go back in that context. It is early days to talk about that, but as far as we are concerned, we are anticipating within six months referring probably a third of the cases back for local investigation. If I

could just break off there, there is a serious issue about how the second cause of the delay led to our problems. It cannot necessarily be laid at the door of anyone in particular. I do not want to get too technical, but a monitoring officer was being asked to do a number of tasks, and the way the legislation was drafted meant that there was a conflict between those various tasks. To ask a monitoring office one minute to be advising a councillor, and the next to be clerking a committee that is investigating a councillor, and at the same time also having to advise a local authority—those are fundamental conflicts, and it took a long time for those conflicts to be ironed out with lawyers in the ODPM's office. That is what caused the delay.

Q164 Mr Betts: Is the case management system now working and useful?

Sir Anthony Holland: It is up and running, and running very well.

Q165 Christine Russell: Can I ask you about the type of complaints, because I understand that you consider only about one in three are worthy of serious investigation because the others are either trivial, malicious or vexatious, and what you are doing to reduce the number of those.

Sir Anthony Holland: When we first started, because as a board we were looking at every complaint that came in, we were very cautious, and we started off referring 46% in the first few months, which was an awful lot; but we did not know how to evaluate those things. I had a number of politicians on the Board, and there were lay people; and they all had different judgmental standards. However, we eventually agreed amongst ourselves that we were being too careful and referring too many complaints, because, plainly, some were, particularly at parish level, effectively neighbourhood disputes. Those of you who come from a rural community will know what a viper's nest that can be in some cases. We actually became quite strong-minded about it, and now it is down to 28%. We now have a referrals unit and a clearer policy and it has gone way, way down. There is no doubt that to begin with we were too cautious and did refer too many complaints; but we had to err on the side of caution because people felt that the particular issues they were complaining about were crucial to them. Indeed, we are now getting criticised for not referring enough. It is a balancing judgment, and it is not an easy one.

Q166 Mr Sanders: Can I ask you about elected members of authorities who make vexatious or malicious complaints.

Sir Anthony Holland: Tit for tats!

Q167 Mr Sanders: Often against their political rivals. Do you think any steps should be taken to penalise those individuals?

Sir Anthony Holland: It is certainly something I would like to think about in about a year's time. We have managed to get rid of a lot of the tit-for-tat stuff and have made it perfectly clear that we

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

are not looking very favourably upon tit-for-tat complaints, or political complaints to score points off an opponent. If one had a situation a year from now where that was still the case, the Board would look very carefully at whether to change the policy.

Q168 Mr Sanders: You are serving notice.

Sir Anthony Holland: Yes. It cannot go on. It really is a disgrace in some situations.

Q169 Sir Paul Beresford: Will it not be a bit difficult to take that approach in the light of article 7, which says they have an obligation to report matters?

Sir Anthony Holland: That is a judgment pulling us in the opposite direction. All that we are about involves all the time a balancing exercise in terms of deciding how best to offer a—

Q170 Sir Paul Beresford: What about the customer? Clause 7 says he has got to do it, and you are going to come in a year's time with advice that if he does not complain too often you are going to jump on the back of his head.

Sir Anthony Holland: I have not said we are going to; we are going to take it into consideration in a year's time. The difference is that there are those complaints, plainly, which are perfectly justifiable; but there are those that, frankly, do raise an eyebrow. The skill in all this is making a judgment. The more experienced our staff become, the more capable they are of understanding the exercise, the better it becomes from our point of view.

Q171 Sir Paul Beresford: Would clause 7—the Stasi clause, as I see it—be effective in stimulating these sorts of complaints, the eyebrow-raising complaints?

Sir Anthony Holland: The figures we have do not bear that out actually. We have had 1% of complaints of that kind, of whistle-blowing. It is very unpopular, and I make no bones about it. The only similarity I can think of is that in the profession I came from originally, lawyers had to do a similar thing. If you think a lawyer has been dishonest or not acting properly, even within your own partnership, you must say so.

Q172 Andrew Bennett: How often did they do it?

Sir Anthony Holland: I cannot answer that question, I am afraid, sir.

Q173 Mr Betts: It is suggested that the written code of conduct encourages people to go out looking for complaints and increases the number. Is that something that has been said to you, and are you looking as part of the review at revising the code of conduct in any way?

Sir Anthony Holland: The code of conduct is under revision now, in the sense that we are consulting about how it could be changed/revised/improved. That is a consultation exercise we promised to do to the ODPM's office. The volume of complaints

has remained pretty static for the last nine months, at around 300 a month. The numbers we have referred for investigation have gone down steadily.

Mr Prince: The trend of complaints that is noticeable over the three years is that those coming from the public have risen, and the number of member-on-member complaints has been falling, as indeed have the number of complaints coming from the parishes. The Chair has mentioned the consultation on the code, and we should be issuing a consultation document very shortly. That will be very comprehensive. It will certainly address section 7, and in fact it will address every section of the code. It will give some headline analysis of the issues and problems that are known to have arisen, and we shall ask some open questions of all stakeholders as to how the code might be amended in the future. It will be a very full exercise. It builds on the discussions that we were able to have at our last annual assembly, when we had the benefit of some 700 members of standards committees and chairs of standards committees and monitoring officers with us at Birmingham.

Q174 Andrew Bennett: On the figures you have just quoted, when you talk about the general public, presumably someone who is a candidate in the forthcoming election counts as a member of the general public, but in local perception would be one of the competing candidates.

Mr Prince: That is always a possibility. I am talking about the trends from known elected members through to members of the public who may or may not be candidates—and obviously we have no means of knowing that.

Q175 Mr Cummings: The Committee has received evidence suggesting that communications between the Standards Board and town and parish councils relating to guidance on the codes of practice are very poor. Do you accept this and do you see room for improvement; and if so how could it be improved?

Sir Anthony Holland: There are many things probably that on reflection might improve, but this is one that I would not. When we first started I personally was a bit surprised at the fact that parish councils were included at all; but that was the law, and I therefore felt it my duty to spend a good few months going round to all the county associations, pretty well every county association, talking to them. We went to talk to the National Association of Local Councils, which was the national body of local county associations, and I found it a very useful exercise. We put an awful lot of effort into the parish council problem, and we were rewarded with the fact that at all times the national association and those county associations I had spoken to, as well as those that members of the Board had spoken to, had all been very supportive and enthusiastic in some cases. I did occasionally get worried about this. I thought, “how could every county association be so supportive?” One evening last summer I went to speak to a parish council in Northamptonshire. What was interesting there was

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

that I got a different feedback. That parish council I suspect is typical of many, and it was not enthusiastic. It did not like the declaration of interests provisions and was opposed to the whole concept. All I can say to you is that we have addressed pretty well every county association. We have never had a complaint from the National Association that there has been no contact or no reciprocity of communication, but obviously we can always get that.

Mr Hoey: Every publication we produce is sent to every parish council in the country, all 8,900.

Q176 Mr Cummings: I am sure that is a move in the right direction. What are the particular challenges that the Standards Board faces in communication with smaller councils?

Sir Anthony Holland: I have always thought that the biggest challenge is in some areas like north Cornwall, which I am particularly familiar with, where there are 69 parish councils. There is one monitoring officer and not a very large number of backroom legal people in the council, I suspect. They have to service 69 parish clerks, and the communication therefore is somewhat stretched, and given their resources unfairly stretched probably. We therefore have to do what we can by communicating directly with the parish councils. I have addressed personally, and other members of my staff, as well as the Board, have addressed the Society of Local Council Clerks, that is clerks of the parish councils and town councils. They have their conference every year in Stratford-upon-Avon. We have put a lot of effort into parish councils. That is not to say, however, that individual members of a parish council do not get concerned because we do seem very remote. We are based in London, and although the Board members have been out and about and done an awful lot of visits, plainly we have got to keep on doing it.

Q177 Christine Russell: I want to ask you about disclosure. We have received evidence from people who quite understandably feel they are worried that even where a member is cleared of any wrongdoing whatsoever, the details appear on your website.

Mr Prince: For some time afterwards too.

Q178 Christine Russell: Are you looking at that? Surely, members who have committed no offence at all should not find themselves listed?

Sir Anthony Holland: The Board is looking at that. We looked at it three or four board meetings ago, and we are coming back to it during the course of 2005. There are two aspects. I am not very happy about the fact that it remains on the website for more than a year—it is currently two years and it is far too long. Secondly, I am not very happy about the detail that appears, so we are looking at it. It is a moving target.

Q179 Christine Russell: Why do the details remain on the website, even if the person has been totally cleared of any charge? Why do you keep it on for years if that person has not broken the code of conduct?

Mr Prince: We keep it there so that the outcome of the case is known to all the parties. As Sir Anthony said, this is something that we have talked about, and the Board has identified this problem.

Sir Anthony Holland: There are four possible results of an investigation: no breach at all; no further action; reference back to a local standards committee; and reference to the adjudication panel. Obviously the first two will remain on the website. The first one, where there has been no breach of the code at all—I personally have grave reservation about what appears on the website—although the Board does not share that view. The trickiest one is “no further action” because without getting too technical, there is no way that a person who has been found to be in breach of the code but there is no further action that he or she can take can challenge that except by judicial review. It is a lacuna. If they were going to be taken elsewhere, then they could challenge the whole thing. They have broken the code, but the only way they can challenge that finding is by judicial review, and I think that is a bit of an unhappy situation.

Q180 Chairman: Is that something you feel might need to be addressed in legislation?

Sir Anthony Holland: I think it has to be looked at. It is a very tricky one. Sometimes, you look at the investigation and the person has actually broken the code, but he or she may not think they have; and yet if you say there has to be some kind of hearing you almost make it worse for them. I think a fair amount of research needs to be done as to what councils would themselves feel is a fair situation. I do know there is a lot of feeling about this.

Q181 Chairman: Is it something you have raised with the ODPM?

Sir Anthony Holland: Yes. We raise things fairly regularly actually.

Q182 Mr Cummings: Do you have any measures at all in your armoury that you could impose upon complainants to prevent them creating unfair public scrutiny through the media?

Sir Anthony Holland: No, no regulation. There is nothing in our armoury that can do that.

Q183 Mr Cummings: Would you welcome such a move?

Sir Anthony Holland: It is a very difficult one, this. Going back to basics, what we are trying to do, and the purpose of Parliament giving us this legislation, is to improve the confidence in local democracy and the standards of behaviour at local government levels. So Parliament, following the Nolan report, felt that something had to be done. As soon as you try and squash complainants you may succeed in squashing two or three who deserve to be squashed,

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

but the odd person who does not deserve to be squashed somehow gets caught up in that exercise, and suddenly people think, “ah, it is all a bit of a game and you are not getting all the complaints you should be having”. On balance it is a judgment, and I think on balance you ought to leave it as it is rather than try and penalise complainants who should know better or did not know better, or just frankly were vexatious.

Q184 Mr Betts: What importance do you attach to training councillors in these matters? Do you think there should be a sanction if councillors do not go for training, or maybe people should not be a councillor until they have had proper training?

Sir Anthony Holland: We do have a separate duty.

Mr Prince: It goes back to some of the previous discussions about the line of inquiry in the next comprehensive performance assessment. The issue of members performing regulatory functions, whether licensing or planning, there is a very strong argument, and many councils now enforce themselves and require members to have the training. The general provision of training is something that the standards committees themselves should be proactive about, and within their resources, and the programmes that are in place in most councils now make provision for there to be useful training around this. You made reference in some of your earlier questions to case studies and case study material, and those are things that we have produced in the past and indeed are planning to do next year—CD-rom and electronic arrangements, so that people can put on tailor-made arrangements locally. It is difficult to require training, and it would be unfortunate if people had to go just to get that tick on the register. I think it would be most effective where it is part of the general behaviour and culture of the authority and led very much by the standards committee, because we believe that the best standards committees, the most proactive ones, have already put in place some very good practice around these areas.

Q185 Mr Betts: Why do you think it appropriate for councillors who perform regulatory functions have to be trained, as some do, and yet councillors taking decisions about social services issues or education issues do not have to be aware of the requirements of the code of practice and all the other things around standards, because many of them will not go on training courses unless they have to?

Mr Prince: I can see the case that many do not have the training for those regulatory functions because of the complexity of the issue and the legal risks that the authority itself will run but also in terms of the standards committees’ role and scope for training, then there is a place for generalised training that is part of the way that business is done in that authority.

Q186 Mr Betts: With no sanction.

Mr Prince: I think there is a place for both. I am not convinced that sanctions are the appropriate way of doing it. It is much better if it is delivered in a way that people find useful, and where there is a hearts-and-minds willingness to do it by the members and a strong lead from the standards committee that it is an essential part of the way the authority is run.

Q187 Mr Betts: Do you know what percentage of councillors go on training courses?

Mr Prince: No, I do not.

Sir Anthony Holland: Can I add something on training, because you raise an interesting point? I personally would make training pretty nearly mandatory for two reasons. First, you have this code of conduct now in place, and therefore you ought to have some means of identifying some of the issues that it raises for the everyday person working in a council situation. By very necessity it ought to be there. We have a statutory duty to guide people about the code. You are taking it further forward by saying it should be totally mandatory for everybody on a council to have training as soon as they arrive at the council, and many councils do have a teach-in and induction. I went to one myself to see what was said actually, and I found it fairly good but a bit shallow, and there was not enough detail. One has to guard against making democracy bureaucratic, and that is one of the problems that worries me.

Q188 Sir Paul Beresford: You lost years ago!

Sir Anthony Holland: Perhaps I have, but I am still naïve enough to think it is worth bearing in mind. If one plunged straight away into a system where we had mandatory training for all councillors, I would be a bit concerned.

Q189 Mr Betts: You said “pretty nearly mandatory”.

Sir Anthony Holland: It is what I call carrot and stick, is it not?

Q190 Mr Betts: I am trying to explore what you are saying.

Sir Anthony Holland: I think it is carrot and stick. People who do not go for training will not—

Q191 Andrew Bennett: Should not get the allowances?

Sir Anthony Holland: I do not think I would put my neck on the block in that way.

Q192 Mr Betts: What would happen?

Sir Anthony Holland: When I say “nearly mandatory” there are all sorts of ways—and I can speak coming from a large legal practice—you can have people in the practice, whether lawyers or not, with all sorts of incentives to undergo certain courses which make them better at it, and the incentives are not there and they do not have the benefit of them if they do not take those courses. You can then do what I call continuing education.

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

You say, “you must have education in ethics over your period of membership of the council and accumulate points in order to qualify for membership of a particular committee”. There are all sorts of ways you can turn this round. I have not looked at the detail, but all I know is that it is worth bearing in mind that the Standards Board has had a number of issues where we had got ourselves thoroughly up to speed on complaints, and that is another area we should look at.

Q193 Mr Betts: Will you be issuing advice about it?

Sir Anthony Holland: We issue advice now.

Q194 Mr Betts: Advice that is perhaps a bit stronger in terms of what councils might do to encourage.

Sir Anthony Holland: I agree with that too.

Mr Prince: The pressure that you are talking about may well come from the key line of inquiry in the comprehensive performance assessment because the characteristics of the highest performing authority that we have been working with the Audit Commission on in that work will be those where there is strong leadership locally and where the standards committee is putting into place training, and generally doing things to deliver the code, rather than just putting in place the bare minimal compliance bureaucracy. That focus itself will cause authorities to look at what they are doing and look at self-diagnostic tools that are available, and ask themselves whether some of the training and materials that we have been putting in place and urging them to do should now be applied ahead of that assessment.

Q195 Mr Betts: Do you think it might be helpful if you collected information about what percentage of individual councillors undertake training in this area?

Mr Prince: That could be a useful line because the focus of the research that we are planning on next year will be very much looking at the effectiveness of standards committees, both around the local regulations that we talked about earlier and about how the agenda is being played out at local level. That, again, will be the subject of our conference next September about how local arrangements are working in practice now that the whole of the machinery is finally in place. What you are suggesting is something we could be looking at alongside that research.

Q196 Christine Russell: You told us earlier about the great efforts that you went to personally in the Standards Board to communicate with smaller authorities like town and parish councils. I am sure you accept that they have particular problems where the clerk only works a few hours a week, works at her kitchen table, in a small community; where she is probably a parish councillor and running the Guides and the village hall *et cetera*.

Sir Anthony Holland: I grew up in a place like that.

Q197 Christine Russell: How do you feel the Standards Board can help parish councillors and parish clerks to understand the need to comply with the code of guidance?

Mr Hoey: There is a whole range of things that we can do, together with the people. We work very closely with the county associations, which are the organisations on the ground responsible for parishes. They do an awful lot of good training and support at county level, and we do give them and their county secretaries a lot of support. We did some research last year looking at county associations and we think they are fairly poorly resourced for what they are supposed to be doing. They are terribly stretched, and we would like to see how we can give better support.

Q198 Christine Russell: What percentage of parish councils are not active or participating members?

Mr Hoey: It varies from county to county, obviously, but I think the average is that 85–90% of parishes are members of county associations, and clearly we would encourage greater uptake of membership because it does give you access to greater training support and guidance. We work closely with those. We want to encourage standards committees also because they have a responsibility for parishes within their districts so we need to look at how far we can deal with those matters. Often we find that within a district there might be 80 or 90 parishes but actually there are only one or two that are of concern in terms of the way they are run and the way in which they carry out their business. We need to find a way of concentrating on those and seeing how we can better support those. We also need to find ways of better supporting clerks because the clerk is in a very vulnerable position. We have come across cases of clerks being bullied and quick turn-around because of the way they are treated. If in some way clerks can be supported and mentored, and if there is some way they can get experience from other clerks who have been in similar situations, we want to try and keep them in post and make sure that those issues are dealt with at the local level.

Q199 Christine Russell: Do you have any capacity for organised training at a more local level than county level?

Sir Anthony Holland: We are very concerned about this, and I had a meeting last week with the Minister. I want to utilise some funds from the capacity building fund to develop a training programme for parish councils and the clerks. We have spent a lot of time looking at the problems, and we have had research done. There are serious issues at the parish council level. Given that the Government wants to devolve greater responsibility and create a more important role for them, we have got to get this improved. There is no doubt that there are dysfunctional parish

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

councils and some that just do not have the resources, and we have to therefore intervene. That is our intention in the next 12–15 months.

Q200 Mr O'Brien: Can I refer to local standards committees, Sir Anthony. At the last session it was said, and most of the evidence we have been given has been that the local standards committee should deal with all complaints and then forward the most serious ones to the Standards Board. Is this a practical operation?

Sir Anthony Holland: It is practical because when you are setting up the regulatory system you could start from the top or from the bottom. I have read, like you have—and you have heard it—the evidence of Dennis Wilson from the Northamptonshire standards committee, who felt that if you start from the bottom up, there might well be problems. Equally, if you start from the top there are problems. When you are setting up a new scheme—because, believe you me this was a very new idea and it was not taken kindly to by the local councillors concerned, as I know—it is probably better to start from the top. That is not to say that you do that for ever and a day. I personally think that you are better off keeping it top down for the time being. It would be putting an enormous burden on some standards committees locally. It would also take away such confidence as there is that what is being done is being done objectively if it was done locally at this stage.

Sir Anthony Holland: After all, the great purpose of what we are about is to create a view that if there is a genuine problem with a local authority or councillors or whatever, it does get looked at objectively by people who are fairly objective in the way they are looking at things. Clearly, if you have a local committee there is a chance that it will not be, and the way to safeguard against that is to say “Right, every member of a local standards committee must be independently appointed by an external body” and that way you can guard against that problem, but I still think at the beginning of an exercise like this, and we have only been doing it for two and a half years in terms of complaints, if you start looking at it too quickly after the beginning I think you are in danger of getting it wrong. You have to build up experience, understanding and confidence in the system, and if you change it too quickly after you have started then one of the effects is to destroy that confidence. One other point: local standards committees are variable, and are bound to be because some have independent chairmen, some do not, how they are made up varies, and whereas there are some which are perfectly independent and very objective, others are not quite within that category.

Q201 Sir Paul Beresford: Because of the variation that you outline of the different committees and the fact that one of the aims of the code of conduct is to see that public trust in elected members is maintained and increased, if the complaints board is looking at their own standards will this develop that conduct or trust in members by the public, or

do you think we should be doing something positive on the point you raised about independent chairmen, or independent members?

Sir Anthony Holland: I think the more independence the local committee has the greater the confidence in what its outcome will be.

Q202 Sir Paul Beresford: How do you get that down to local authorities?

Sir Anthony Holland: Every year we have the assembly of all the standards committees, where the chairmen come along and the monitoring officers come, and we try to emphasise, and we have done it on each of the three occasions, the importance of having independent chairmen and, even more importantly, independent members as well.

Q203 Andrew Bennett: You have this whole process of investigation. Do you think the sanctions against individual councillors at the end are reasonable and sensible?

Sir Anthony Holland: On balance I think they probably are, yes.

Q204 Andrew Bennett: And you do not think there is a danger that you penalise the electorate rather than the council?

Sir Anthony Holland: That is always a danger and, again, it is a balancing exercise of which is the more important objective. Parliament has decided, and I think that is right, that this is the more important objective, to get the councillor's behaviour, if you like, totally above board, objectively considered, and dealt with.

Q205 Andrew Bennett: I am aware of a councillor who has been suspended for six months from all his council activities because he hit one of his constituents. He was elected relatively recently; most of the people who voted for him would know of his fiery nature. Is it really fair on his constituents that for six months he will not be able to pursue matters and do representation?

Sir Anthony Holland: I suppose that is the price you have to pay for this kind of legislation.

Q206 Andrew Bennett: Do you think it is good legislation?

Sir Anthony Holland: Life is not very fair and occasionally, when you have any legislation, there are drawbacks to parts of it and it may not be perfect. If I had to stand back and make an assessment of this particular piece of legislation's intent I think it is a good piece of legislation. I started out having no experience; I have made no bones about this of local government; I was appalled by some of the things I saw in the first 15 months or 18 months when we looked at every complaint. I had no idea such things went on. It has not actually destroyed my faith in local government because I think by and large the vast majority, 98% of people, do a very good job often with great difficulty and at great demand and personal sacrifice to their families.

17 January 2005 Sir Anthony Holland, Mr David Prince and Mr Paul Hoey

Q207 Andrew Bennett: So do you think after two and a half years you have improved the standards in local government?

Sir Anthony Holland: I could not make a judgment; that is for others to judge.

Q208 Mr Sanders: For the record, what is the annual budget?

Sir Anthony Holland: £8.9 million.

Q209 Chairman: I think the last statement but one was very positive so I was going to say it is a very good note on which to end, but do you want to risk spoiling that, Mr Prince?

Mr Prince: Just going back to an earlier question, the Board handles about 1,000 cases in the course of a year in terms of referred cases.

Q210 Chairman: Is that the value for money question?

Mr Prince: Yes. A thousand cases are considered in terms of one of the statutory sanctions.

Mr Sanders: But if they were not there they would not be considered, would they, and therefore the money would not be spent.

Chairman: On which note I think it is a good time to thank you for your evidence.

Witnesses: **Rt Hon Nick Raynsford**, a Member of the House, Minister for Local and Regional Government and Fire, and **Mr Paul Rowsell**, Official, Office of the Deputy Prime Minister, examined.

Q211 Chairman: Good afternoon, Minister. Would you introduce yourself, please?

Mr Raynsford: I am Minister for Local and Regional Government, accompanied by Paul Rowsell, a senior official in our department with an oversight of the work of the Standards Board.

Q212 Chairman: Would you like to make an introductory statement?

Mr Raynsford: No. I am happy to go straight to questions.

Q213 Christine Russell: How successful do you think the Standards Board has been in restoring, improving, public trust in councils and the elected members?

Mr Raynsford: I think I would say, first of all, that establishing public confidence and trust is not something that is amenable to quick, overnight judgments. Trust can be damaged quite seriously by individual cases in a particular council area, and that may take several years to recover. More general trust in the operation of local government is extremely important; we believe that the Standards Board does play a hugely important role in building public confidence; the very fact that it is there, that it is able to deal with complaints, that it can investigate them in a thorough and impartial way all add to the scope for enhanced public confidence, but I would expect it to be a little longer. After all, the Board has been in existence for only three years, and I would expect a longer term period before I could give a definitive statement, but I think it is making an important contribution and I think its existence is crucial to public confidence in local government.

Q214 Christine Russell: But do you feel more needs to be done to raise public awareness of the existence of the Standards Board?

Mr Raynsford: I think it is almost inevitable that a new body does take a certain period of time both to get fully and effectively operational and to build understanding in the wider world. This is not the sort of material that will find its way into most media every day of the week, and it does take time.

Q215 Sir Paul Beresford: Has the Board suggested changes to you that might improve the opportunity for it to do its task?

Mr Raynsford: The Board has taken a number of steps and I think in particular has given a lot of attention to how it can help to spread good practice and understanding on the part of local authorities and how they best handle complaints and deal with matters that might otherwise be referred to the Board. I think that is equally important to the role of providing a body which can investigate complaints, and I have been very keen in response to suggestions from the Board that they should develop and take forward that work in spreading good practice and encouraging councils themselves to train and develop their own members in the highest standards.

Q216 Sir Paul Beresford: Have they suggested changes in the code of conduct?

Mr Raynsford: Well, they are looking at it at the moment. It was my suggestion that they should review the code after a period of three years of its being in existence, and I am delighted they are doing that.

Q217 Mr Sanders: Has the Standards Board met its aim of fulfilling confidence in local democracy and governance?

Mr Raynsford: As I said in response to Christian Russell's question I think it is too soon to give a definitive statement but I am confident that it is fulfilling its role and that public confidence will be enhanced as a result of the continued work of the Standards Board.

Q218 Mr Sanders: So will you be recommending that the rules are now extended to members of Parliament?

Mr Raynsford: These are different issues. The Standards Board is there to look into matters relating to local government and there are separate procedures for dealing with complaints against members of Parliament.

17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

Q219 Mr Sanders: Such as training of members, for example?

Mr Raynsford: Well, it would not be for me to make such a recommendation but I think there are lessons that can be learned from the experience of bodies doing parallel work, and I am sure the Committee on Standards in Public Life will be looking very closely and with interest at the good work being done by the Standards Board.

Q220 Chairman: Will you have discussions with your colleagues about whether bodies like primary care trusts might be subject to similar scrutiny?

Mr Raynsford: I am sure there is scope for learning through the dissemination of best practice, there is no doubt, but I have to say I have rather limited my remit to oversight of the Standards Board itself, to ensuring that the teething troubles they faced in the early period of time as a result of the delays that built up over certain cases were dealt with expeditiously, that the Board is able to fulfil its function and to meet its overarching objective of building public confidence in the institutions of local government.

Q221 Chairman: But do you have something good to offer to colleagues in other areas of government, that there might be some rationale in looking at something like that?

Mr Raynsford: Yes.

Q222 Mr Betts: What importance do you give, Minister, to the issue of training councillors so they become fully aware of the code of practice, the guidance, etc?

Mr Raynsford: I think that is very important indeed; that is the Standards Board's work in disseminating good practice, in encouraging training, in helping local authorities themselves develop appropriate training and development programmes for members. All of that is crucial. I remember when I first became a member of a local authority we had virtually no training at all other than the programme that had been put in place by my party before I was elected. One was then dropped in at the deep end and expected to function as a councillor dealing with quite complex issues with very little preparation or training. In that case it was rather crucial because there had been a fundamental change in the composition of the local authority as a result of two very large swings in public preference in the relevant elections, so you had a lot of very young inexperienced councillors. I think nowadays we have learned that there is a need for much more to be done. Certainly through our capacity building programme we are assisting councils to do more, and the whole leadership centre is giving real attention to what is necessary to help develop and train councillors, so there is much more attention to that nowadays. Yes, this issue of standards is crucial, so we are very supportive of the approach which the Standards Board has taken and we are very keen to encourage councils to build on the good advice that the Board has made available.

Q223 Mr Betts: But the reality is that if a councillor decides that the training is there but they do not want it, they can still carry on being a councillor and taking the decisions that any other councillor would take who did not have the training course, and yet any councillor who maybe is on a regulatory committee or a planning committee and so on will not be allowed to go on those committees until they have been trained in that specific task. Is there a slight problem here in the way that there is no censor at all if the councillor refuses to go on a training course?

Mr Raynsford: This is the issue that comes up repeatedly with anyone who is elected to public office. Whether they are members of Parliament or councillors; all of us are ultimately accountable to the electorate and that is the final court of judgment and it is difficult to put in place highly prescriptive obligations on people who are not answerable to the officers in local government any more than we are answerable to the authorities in this House. We are answerable to our electorate and ultimately one hopes that people will act sensibly and responsibly but it is quite difficult to see how you can put in place very prescriptive obligations without creating a potential risk that someone is called to account other than by their electorate.

Q224 Mr Betts: But councillors who in some authorities do not go on a training course for licensing regulations do not go on the licensing committees?

Mr Raynsford: But the council is perfectly free to have such rules if it so chooses.

Q225 Mr Betts: So councils could say "If you have not been on a training course on matters of standards and conduct then you will not be allowed in any council meeting"?

Mr Raynsford: I am quite relaxed about councils adopting those kinds of rules and I would encourage that, but I would not want a highly prescriptive centralised regime insisting that people must go through certain detailed requirements before they are eligible to perform their functions as councillors. That would seem to me to be overbearing on the part of central government.

Q226 Mr O'Brien: On the question of the Standards Board and the fact that they underestimated the amount of complaints that they would receive and obviously the practice of trying to deal with all the complaints was a problem in the first few months, was the Standards Board under resourced to manage the input of the complaints?

Mr Raynsford: I think the thing you must remember was that this was an entirely new venture. It was starting from scratch; it was moving into territory which was to a large extent unknown. I do not think it was surprised by the number of cases. I think the Board was troubled both by the complexity of some of the cases and the inability in some of the early stages to be able to devolve responsibility for investigating beyond the Board

17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

itself. We have acted in response to the concerns that were raised and we have allowed, through changes both in legislation and in regulations, the Board to devolve responsibility for decisions to officers of the Board and, indeed, to allow local investigation as well as local determination on cases, and that has taken a little time to put in place. On resources, when the chairmen came to see me I suppose about 18 months ago to highlight some of the resource difficulties they were facing, we did consider the issues carefully and we have made an additional £900,000 available to the Board to enable it to tackle the backlog. That I am pleased to say has helped the Board to respond very effectively indeed, and we have seen a dramatic reduction in the backlog and now we are seeing the Board moving forward confidently to meet its targets for expeditious handling of its cases.

Q227 Mr O'Brien: Was the additional resource to bring in more officers to investigate the cases on a proper level?

Mr Raynsford: It was more than that but it was certainly to enable the Board to have the staff available to be able to cope with the volume of work and the complexity of the cases that had to be handled.

Q228 Andrew Bennett: You gave them the extra money 2003-4, 2004-5. Is that going to continue or have you now cleared the backlog, or they have, and their funding is going to revert to where it was?

Mr Raynsford: I have had recent discussions with the Board about their budget for 2005-06. We certainly see the need for contingent resource; there is no question of the level of resource being reduced by the amount of the extra increase, but clearly we expect the Board to act in an expeditious way and we will be finalising the budget with them in the reasonably near future.

Q229 Andrew Bennett: Right. So how much do they get?

Mr Raynsford: I am not at liberty to say yet but I am determined that they will have the resources they need to be able to continue to provide a high quality service and to maintain the gains that have been achieved over the last 18 months.

Q230 Andrew Bennett: So how are we as a Committee to make an assessment as to whether we are getting value for money from the money they are having?

Mr Raynsford: These are very difficult judgments because if you start with the principle that it is public confidence in the institution of local government that is the ultimate measure of success, it is quite difficult to put a monetary value on that, and certainly with the difference between, say, a budget of nine and 10 million it would be very hard to say that the difference of a million in that budget is the measure of success or failure in terms of public confidence. However, if one looks in terms of the level of cases being handled, the speed with which those cases are being completed, the volume

of other work that the Board is undertaking in terms of advice and good practice guidance and training for local government, then one can form a view as to whether it is acting in a cost effective way. I certainly believe it is at the moment and I think it will be open to the Committee to look at that too.

Q231 Andrew Bennett: The Committee might, and you can, but what about my constituents who might feel that a few extra daffodils in each local authority park would be better value for money than an organisation like this, most of whose investigations are frivolous complaints?

Mr Raynsford: If I can put it this way, I am sure there are many of your constituents, and many of mine, who, presented with the issue in those terms at a time when they have not had any high profile complaints against their local authority might well say "Yes, maybe it would be better value for money to have more daffodils in the parks". As soon as the first serious complaint comes up that a councillor has not acted properly, I suspect you get a very different judgment, why was there not a body in place to take action to deal with that, and that is the difficulty. This is about confidence which is why in my initial response to your question I emphasised it is very difficult to measure long-term objectives like public confidence in the institution of local government against short-term measures of value for money performance.

Andrew Bennett: If it was really serious could it not have been dealt with in the courts anyway?

Q232 Sir Paul Beresford: Or by the Audit Commission?

Mr Raynsford: I have to say my feeling is that there are many people who have felt that the previous arrangements did not provide an adequate form of redress. The courts inevitably raise issues of cost and the capacity of individuals themselves to take on perhaps more powerful individuals who can be quite threatening and intimidatory if they are challenged, and I think the Standards Board provides a very necessary and very important safeguard that many people are extremely pleased to see in place, so I certainly would not think there was any benefit in going back to the previous status quo.

Q233 Sir Paul Beresford: But the Audit Commission does some of that anyway? Could they not be very simply added to it?

Mr Raynsford: No. The Audit Commission has different responsibilities, as you are well aware.

Q234 Sir Paul Beresford: But it could be added?

Mr Raynsford: I am sure if it was suggested that that could be done then that could be explored and I suspect there have been discussions about this, but I am sure the Audit Commission would be the first to say they would require the necessary resources on the same scale as the Standards Board

17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

to be able to perform the function that it performs, and I am not sure what would be gained by that process.

Q235 Sir Paul Beresford: Perhaps less duplication?
Mr Raynsford: I do not think it is duplication. There is a memorandum of understanding between the Standards Board and the Commission, as indeed there is with the local government ombudsman. It is not suggested that the Audit Commission should take over the local government ombudsman functions. There is obviously a common interest, but they are different functions performed well and separately by the two separate bodies, and exactly the same applies, in my view, with the Standards Board.

Q236 Mr Sanders: Coming back to value for money, the Board has since its existence come up with 160 cases where sanctions have been applied. That works out at about £220,000 per sanctioned member. I just cannot believe that however many bad apples there were before this system was put into being, it cost that amount of public money.

Mr Raynsford: Let me put it this way, and I will take an example from the past. If the activities associated with Mr Poulson 20, 30 years ago had been identified and investigated earlier, had there been a Standards Board able to take action, then I think not only would the public have felt very much happier but there would probably have been very clear value for money in that a lot of the events that took place that caused huge public concern at the time could have been prevented. I am not saying it would have been but it could have been, and I seriously do not think you can take a view that because, over a relatively short period of time, the three years or so that the Standards Board has been in operation, two and a half years that it has been investigating cases, the actual monetary value attached to cases where sanctions have been decided appears to be quite high, I do not see that is a proper basis for forming a judgment about a body which is there, as I have said, essentially to build public confidence in local government. Now, it only requires one high profile case to completely change people's perception, and that is the point I was trying to illustrate by reference to Mr Poulson.

Q237 Sir Paul Beresford: But equally the Audit Commission would or should have picked up Mr Poulson as well, if they were in existence at the time, and they were not.

Mr Raynsford: I am not sure they would have initially—and they were not in existence, you are quite right—because I suspect a lot of the issues were to do with complaints about probity and relationships and it is precisely those that the Standards Board is in the strongest position to investigate.

Q238 Mr Betts: We have heard evidence that the Standards Board was initially swamped by the enormous number of cases coming in and they were working out how to approach this and develop

ways forward. It took, however, until November of last year for regulations which allowed cases to be for investigation and determination at local level. Could something not have been done more quickly in the interim to help the Standards Board out of the difficulties they were clearly in?

Mr Raynsford: We would like to have done so but I am sure you understand it was necessary that the regulations were the subject of consultation and those consultations highlighted a particular problem, and the problem was the potential conflict of interest for a monitoring officer who has given advice to a member about the member's behaviour who might then be, under the original proposals, the investigating officer and it would clearly have been a potential conflict of interest so we had to make provision which required legislation to enable the monitoring officer to delegate responsibility for investigation in a particular case. That was the issue highlighted by the consultation which required an amendment to the 2003 Local Government Act and that was the reason for the relatively long period of time before we were able to put in place the new arrangement. I understand exactly the frustration: I hope you will understand that actually the delicacy of that issue made it essential that we did make the necessary legislative change and that was the reason for the delay.

Q239 Mr Betts: And there was no possibility to do anything else in the interim to help?

Mr Raynsford: We could have but it would have left the monitoring officer, who was the person in charge of investigating, being in a position of potential conflict of interest which could have seriously undermined the very thing we have been talking about for most of this afternoon, which is public confidence in local government.

Q240 Mr Betts: And how do you see the local standards committees operating in the longer term? What is their central role? Do you think they can be seen to be demonstrably free from bias, which I think is one of the tests about how people perceive the process?

Mr Raynsford: I have given quite a lot of thought to this and I have spoken to both the Standards Board annual conference on the subject and also to a very interesting meeting I had with the independent members of standards committees in the Greater Manchester area, where I was invited to talk a month or two ago. My view overall is that they are working generally well but they have a balance to achieve. On the one side they have to convince the public that they are independent, and the presence of independent members is crucial to that. On the other hand, they are not to be so independent that the local authority does not itself take ownership for the whole issue of standards and encouragement of good practice in the authority, so you need to have not just independent members but councillors who are thoroughly committed and involved. Now, inevitably there are some people in the public who regard the presence of councillors on a local standards committee as

 17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

prejudicing the outcome, because they will have a vested interest. I do not think that is the case but I do think it is a delicate issue and standards committees do have to do these two separate things. In general I think they are doing well; I am keen to see the role of independent members developed—I myself have expressed sympathy for the view that in general standards committees should be chaired by independent members, I think that is a way of giving a very strong message of reassurance to the public that committees are not likely to be swayed by the interests of the council. But again I do not wish to be unduly prescriptive in this area. It is a matter for local government and what we are trying to do is help, with the Standards Board itself, raise the confidence of individual standards committees and let them share good practice. One of the reasons I was particularly keen to go to that gathering in the Greater Manchester area was that it brought different independent members from different standards committees together, and that sharing of good practice is I am sure very constructive.

Q241 Christine Russell: You said in an earlier answer that you welcomed the review of the code of conduct. Why do you welcome it? What concerns do you have with the existing code? Do you consider it ambiguous or confusing? What is the concern?

Mr Raynsford: I think my response is implicit in an earlier answer I have given—that we are in an area which is rapidly developing; this is a new institution; it has already a lot of experience, and inevitably some of the assumptions we have made at the outset have not proved to be sustainable. I have talked about the need to change legislation relating to the role of the monitoring officer because of potential conflicts of interest, so things like this emerge from the experience of the work of the Board and of standards committees, and therefore it seemed to me this it is timely, now that we have had two and a half years of practical experience, to begin to look at the ways in which the code might be changed. I do not think it is going to require fundamental changes but I do think it is an appropriate moment to take stock to see where in some cases modest adjustments might help to improve things and other areas where there may be a case for looking a bit more radically. I know the issue of whistle-blowing has been a matter of real concern and I am sure it is sensible to look again at that because there are conflicting interests there. On the one side you have the need to discourage a culture of collusion that might prevent exposure of malpractice; on the other side you have to avoid a framework that creates undue pressures on councillors and which might be seen to be unduly prescriptive.

Q242 Christine Russell: Do you have another concern which is the fact that it appears to be that the code of conduct has actually deterred a number

of people from putting themselves forward as candidates, particularly for the smaller authorities like parish councils?

Mr Raynsford: I do not accept that. I think we heard a lot of hype in the early days that this was going to lead to a mass exodus from parish councils; in my experience it was greatly exaggerated. The fact of the matter is that parish councillors were subject to standards before. It was not a case of new imposition. What the code did was to codify expectations for the first time, which I think was frankly helpful, and it did quite rightly fire a warning shot across the bows of those who believed that, because they were part of a relatively small body, they had no need to worry about the standards and practice of public life that everyone knows are appropriate. I have to say I do not accept that presumption at all. Whatever level of public life you are engaged in, whether parish council or in government, I think maintenance of the highest standards is absolutely fundamental to public confidence, and I think it was absolutely right to apply the code to parish councils and I do not think there has been across the country as a whole any serious loss of talent from parish councils. There has been, I am certain, greater sensitivity to standards of openness and declaration about prejudicial interests and, judging by the volume of complaints that the Standards Board has received, that is a matter of real concern to many people in many areas who felt previously that some parish councils did not always uphold the standards one would want to see in public life.

Q243 Christine Russell: But without wishing to condone any prejudicial behaviour, can you not accept that sometimes there are individuals who have real, serious conflicts of interest because they live in a small community and perhaps wear an awful lot of different hats in that community? They could be a school governor, a church warden, could run a number of voluntary activities. Is it not more challenging perhaps to be a parish councillor and comply with the code of conduct than perhaps if you were a councillor in a big metropolitan area?

Mr Raynsford: I genuinely do not think so. You, like me, live in your constituency and will know that a public representative living in their community is going to be subject to quite a lot of scrutiny, and the principles of openness and declaration of matters that might be prejudicial to their public performance—this is not a question implied about people having to reveal their private circumstances, that is not the case, but on matters that might affect their performance of public duties—I think disclosure is proper and appropriate.

Q244 Mr O'Brien: The evidence that has been presented to the Committee and comment that has been made by members and organisations is that the code of conduct has given opportunity for troublemakers to make capital out of what is

17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

happening in their own area for political gain. Do you think the Standards Board have been effective in preventing this kind of activity?

Mr Raynsford: This is always going to be an issue which does raise concern as to whether the existence of a mechanism for complaint encourages the vexatious or the unjustified complainant. I think the only way this can be resolved is by a speedy process of filtering cases which the Standards Board now has in place. Initial screening is handled I think within 11 days with the objective of achieving it in ten, and those cases where there is no merit in the complaint should be immediately filtered out at that point, and that is the safeguard against the possibility of unjustified and vexatious complainants making excessive use of a system. But there is always going to be a risk with any system that allows complaint that there will be some people who try and abuse it for other purposes. That happens in the courts and in tribunals and is something that we have to guard against, and we have robust systems in place to provide safeguards but we can never wholly prevent such cases.

Q245 Sir Paul Beresford: Do you think the Stasi clause or the whistleblower clause inspires people to make the excuse for those sorts of complaints?

Mr Raynsford: No. I think the people who want to make vexatious or malicious complaints will do so, and do so in any context. It could be in the case of a dispute over a garden hedge with a neighbour.

Q246 Sir Paul Beresford: Some of the evidence given to us has indicated that people on local authorities in particular thought that this in fact did stimulate complaints.

Mr Raynsford: There is very little evidence. We have seen a more or less constant level of cases coming to the Standards Board over the two and a half years that they have been fully operational. I do not see any significant evidence there has been a huge increase or after the initial surge a dramatic reduction, which might be expected if this was thought to be in the short term a process of stimulating artificial complaints.

Q247 Mr O'Brien: Earlier in a question I put to you about resources there was this issue of officers being appointed and the fact that there was a shortage of officers in the first instance. Do you think there should be penalties against people where it is proved that they have been raising frivolous or vexatious questions? It is wasting officers' time and resources. Should it be highlighted that this is a situation that will face penalty?

Mr Raynsford: I can understand the thinking behind the question and I have a certain amount of sympathy with it. The difficulty is that the process of then investigating the vexatious complaint to establish beyond all reasonable doubt that the person should be subject to a penalty is likely to be disproportionate. I think the right response is to have the filter which has the result of a quick but nevertheless serious look at the

evidence, decides that the case is non meritorious, and the complainant is immediately notified that that is it, the case will not be taken any further. That sends a pretty powerful message that the system will not provide an easy route for people who simply want to use the Standards Board for unjustified purposes. Of course, people who repeat vexatious or unmeritorious complaints do put themselves in a position where it would be possible for their political opponents to expose that in the local press, so I think there are certain safeguards. But it would be very difficult to have to go through a process of checking in detail the basis of that complaint, as to whether it was simply a genuine mistake, someone thinking there might be grounds for complaint, against someone acting irresponsibly and for malicious purposes.

Q248 Mr O'Brien: But the whole purpose of the code of conduct is to build and extend the confidence of the electorate, and if you are parties on a local authority who want to score points off each other with frivolous complaints, surely this is not the best way to encourage the electorate to give support? As the minister responsible, and obviously you do have concerns over some of the issues, are you intending to pursue this matter with the chairmen of the standards boards to keep abreast of the situation so we do not fall into that trap of a situation where the electorate become disillusioned?

Mr Raynsford: Yes, very much so. I will continue to keep a fairly close watch on this. I am reassured by the fact that the trend in casework going to the Standards Board does not show a surge and the majority of cases come from members of public or from council officers rather than from other councillors, but if there were to be a trend showing significant growth in malicious and unjustified complaints then I would want to see further consideration to be given to what might be done to discourage this. At the moment I do not think that is the case but I can give you the assurance that I will continue to keep a watch on this.

Q249 Chairman: Do you not think there should be some local filtering? You probably know who some of the vexatious complainants in your constituency might be, and I suspect some of the local authority members might know who in the bodies beneath them might be. Would it not save some of the strain on the Standards Board if there was some pre filtering?

Mr Raynsford: Undoubtedly it could but there is a downside, which is twofold. One is that if the filtering was to be done locally there is a risk that the public would lose confidence in the independence of the process. In particular the vexatious people you have described, some of whom I am well familiar with, would never believe that the case had been rejected, if it was rejected, fairly if it was done locally.

Q250 Andrew Bennett: They never believe that anyway!

17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

Mr Raynsford: I agree, but it is much easier to demonstrate that they are wrong when an independent body, the Standards Board, has investigated the case. Secondly, equally importantly, there is a need for consistency between areas and I cannot see how, if you did depend simply on local filtering, you would not get quite significant variations in the levels of proof, the standards of investigation, applied between areas. So both on the question of public confidence and on consistency I believe it is essential that there is national filtering but it has to be done quickly and I am delighted that the Standards Board has been very successful in speeding up that process.

Q251 Andrew Bennett: What about a moratorium on complaints in the month before local elections?

Mr Raynsford: It is an interesting issue because there is a genuine concern that a complainant can get a complaint in quickly, then publicise it and can use that for electoral purposes—

Q252 Andrew Bennett: That is why I have asked you the question—

Mr Raynsford: I understand exactly the anxiety.

Q253 Andrew Bennett: —so what about answering it?

Mr Raynsford: My view about this is that the safeguard against that—and I am not not answering, I was only setting out the logic—against that is to have speedy filtering of the complaints and a speedy rejection of those that are unjustified so that the person against whom a malicious complaint has been made for electoral purposes is able to use that rejection by the Standards Board of the complaint to get their own back in the course of that election. That seems to me the best safeguard. The risk of having a moratorium is that a genuine and serious case could not be investigated and that might undermine public confidence if they were told there was nothing they could do for a period of time.

Andrew Bennett: The logic of your proposal that they get an answer quickly is people leave it closer and closer to election date to make the complaint?

Q254 Sir Paul Beresford: And make the complaint more complicated so that it takes time to investigate.

Mr Raynsford: All I would say is that because I am a London member my local newspaper only appears weekly so there is very little benefit in making the complaint less than a week before the election because it will not get any publicity in the local organ, so I am not sure that that does apply.

Q255 Andrew Bennett: Sixty per cent of the complaints in 2003–04 required no investigation. Have you any idea whether the people who made the complaints were satisfied with the answer that they got from the Standards Board?

Mr Raynsford: I do not have objective evidence on that. I suspect, and you will have your own views on this too, that some will remain dissatisfied; some will accept the outcome. I am pretty confident that if that

initial screening had been by the local authority, a larger proportion would have been likely to be dissatisfied because they would not have had the confidence of knowing that it was an independent body.

Q256 Andrew Bennett: As the Standards Board is better understood, would you hope that the number of those sorts of complaints steadily goes down?

Mr Raynsford: Yes, because I would hope that the very presence of the Standards Board would ensure that vexatious and non meritorious cases would not be brought and that the public would understand the remit of the Board and the fact that a vexatious complaint was unlikely to be considered so I would, but I think these things always take quite a long period of time and I would not like to give a forecast as to when one might expect to see that process developing across the country as a whole.

Q257 Mr Sanders: At what point after a complaint has been made should the person who is the subject of the complaint be made aware of it?

Mr Raynsford: Again, a very good question, and I know there have been anxieties on the part of people who have been the subject of a complaint that they are not informed during the initial screening period. I think that is acceptable, providing two conditions are met. Firstly, that the initial screening is very quick and, secondly, that there is a clear statement by the Standards Board at the end of that screening which is available to the person against whom the complaint has been made that the complaint has been rejected.

Q258 Mr Sanders: Should the monitoring officer of the council be informed depending on the nature of the complaint, or is that pre judging it?

Mr Raynsford: This is an interesting issue but there is a risk of pre judging the outcome and, while I can see some possible merit in the argument, I would personally want to see rather more evidence of the implications both ways before expressing a view. This is precisely the kind of issue that I would hope would be discussed in the course of the review of the current code.

Q259 Christine Russell: Finally, looking to the future, do you have any plans to change the role or the responsibilities of the Standards Board, and when will the review be carried out?

Mr Raynsford: We have no plans for fundamental changes. We believe that the Board is an essential and very necessary part of the overall architecture of the framework for local government in this country. We do believe there is scope for fine-tuning and improving some of the procedures and some of the details of the code, hence the review of it. I am sure that will be an on-going process. I would not expect to see tablets of stone established for a few years yet and, indeed, in any good system for dealing with complaints from the public there is probably a constant need to be thinking about whether all the procedures will be as good and efficient as they ought to be, so I would not want to fix a finite time and say

17 January 2005 Rt Hon Nick Raynsford MP and Mr Paul Rowsell

that by such-and-such a year we will have got everything absolutely right. But I do repeat what I have said, that I think the Board has made very real progress since it came into existence; I am pleased with the direction of travel and the speed of travel, the speed of improvement in case-handling, particularly recently, and I am confident that it will make a significant impact in building public confidence in the integrity and the decency of local government.

Q260 Christine Russell: The Board has now been up and running for nearly four years, so when will the review be carried out?

Mr Raynsford: Well, the review of the code is happening already.

Q261 Christine Russell: No. The work of the Board?

Mr Raynsford: We will want to review, in the normal way we do with agencies and non departmental public bodies, to a five-year timescale.

Q262 Chairman: On which note can I thank you very much, and call the session to a close.

Mr Raynsford: Thank you.

Memorandum by D.M. Webster, Shirebrook Town Council (STA 29)

The role of a body to oversee the governance of Local Authorities is a necessity following the previous high profile scandal cases such as “Donny Gate” etc.

I would question the need for such a high powered organization to be overseeing the small Parish/Town Councils. In the case of larger City/County Councils their internal auditors should be detecting fraudulent practices. However, anyone using malpractices to obtain favours would normally be intelligent and subtle enough as not to be detected. These events only usually come to light when greed and envy come into the scenario and the “whistle blowers charter” kicks in.

EFFECTIVENESS

The effectiveness of the Board is at a very low level mainly due to the way it has been set up and the unrealistic time scales that it has set itself (three months).

If it was to operate within the time scale it requires to have a more common sense and streamlined approach for dealing with cases.

In the small Parishes/Towns the local Councillors are well known and in some cases well related to members of the public. Therefore an over the top view could be that it is difficult to make any decision that would not be seen by someone else as the Councillor having a personal or prejudicial interest in a decision taken by them.

In investigating any complaint it requires to be determined which category it comes within.

Category 1— A mistake.

Category 2— A decision made with fraudulent intent.

Category 1

Requires the subsequent questions to be asked:

- (i) Has the mistake been admitted and made public.
- (ii) Has any decision been made that has incurred expenditure or advantage to a third party.
- (iii) Is any action required to recoup any expenditure or to take away any advantage to the third party.

In my opinion if the above questions can be satisfied then a quick answer to the allegation can be given within the time scale without incurring expensive legal/officer costs.

Category 2

If a decision was made with fraudulent intent then a preliminary investigation should take place within the time scale and the person or persons involved informed that a full investigation is to take place and in what additional time scale.

This obviously would have to be reviewed depending on the complexity of the case.

Both in Category 1 & 2, cognizance must be given to the monetary cost of the decision that has been made. It would not be prudent to incur high level costs to recoup a minimal expense.

It could bring into question the competence of the Authority carrying out the investigation And whether or not they would be liable for incurring unnecessary expenditure for the Local Tax Payers.

From my experience the effectiveness of the Standards Board for England has been very poor and has created divisions at local level that could make Parish/Town Councils superfluous unless a radical review of the system is undertaken. The review to be effective would need to have input from competent people operating the Local Government system at all levels.

Memorandum by Herefordshire Council (STA 30)

HEREFORDSHIRE

1. Herefordshire is the second largest non-metropolitan unitary authority in England. It has a population of 176,500; reflecting its rural character, it is organised into 40 wards with 238 parishes and 134 town and parish councils. There are over 1200 town and parish councillors and 58 Herefordshire councillors.

2. The majority of the town and parish councillors belong to the Herefordshire Association of Local Councils. This has proved extremely useful in terms of promoting the Code locally, providing training for town and parish councillors, and helping us connect with town and parish councils.

THE HEREFORDSHIRE STANDARDS COMMITTEE

3. The Committee was established in its current form in 2003. It consists of two independent members, two town and parish representatives, and two Herefordshire councillors (the Chairman and Vice-Chairman of the Council). The Committee is chaired by an independent member.

THE LOCAL SITUATION

4. The introduction of the National Code of Conduct in 2001 before the local elections in May 2003 was seen by many as changing the rules mid-term. There was considerable resistance in Herefordshire, which was covered in the national media as well as locally, and which was a major challenge for us in our first few months of work. As the table shows, things are a little calmer now.

<i>Year</i>	<i>No. of Complaints</i>	<i>SBE Referrals to Ethical Standards Officer</i>	<i>Adjudication Panel Tribunal Outcome</i>
2002	29	15	13 sanctions ranging from disqualification to reprimand.
2003	49	12	No penalties
2004 (to date)	16	3	Not applicable

The Standards Board for England— what's gone well?

5. Since the formation of the SBE our Chairman and our Monitoring Officer have had frequent contacts with the Chairman and with the Chief Executive and other senior staff of the SBE. They have been accessible, positive and helpful. We feel that the SBE has a sharp focus on its task, a professional approach, and good prioritisation. But it is also our impression that it has to cope with difficulties not of its own making, which we list in the next section.

6. The SBE has made a real contribution to awareness and training. Its website is well-designed and informative. The case review material is excellent. The SBE Annual Conferences have been a valuable means of supporting standards committees across the country, sharing experience, and providing current awareness. The Board has also been effective in supporting local and regional events, and in providing speakers and promotional material. Although we have taken a local initiative in arranging joint training days with neighbouring authorities, we think that the SBE might arrange workshops, perhaps on a regional basis, for general training and especially to prepare for the demanding process of local determinations.

The Standards Board for England— what hasn't gone so well?

7. The Board is not to blame for much of what follows, but the factors listed below have provided a difficult context for its work.

8. **The regulatory regime is seen by many as too detailed and bureaucratic**, especially at town and parish level. This is still a source of difficulty; there was a loss of town and parish councillors in Herefordshire following the introduction of the Code.

9. **Regulations** needed for the full operation of the system **have appeared many months late**, which has contributed to a feeling of uncertainty, and has not helped the credibility of the system.

10. There is **an insufficient element of local handling and filtering**, which has increased the burden on the SBE. We welcome the regulations empowering standards committees to conduct local hearings, and we hope that the SBE will refer as many cases as possible for local determination. We also welcome the regulations allowing monitoring officers to carry out local investigations. It is regrettable that both S.I.s appeared so late.

11. Even with these changes, all complaints have to pass through the Board's machinery. **We would like to see the local level as the default setting, with complaints initially considered by standards committees, who would be able to refer the more serious cases to the SBE.** A means of ensuring consistency and avoiding perverse local decisions would be needed, but we do not think this requires much ingenuity. (We note that the Joint Committee on the draft Bill which became the Local Government Act 2000 recommended (paragraph 239 (iii)) that a complaint should be considered first by the local standards committee.)

12. The statutory independence of **Ethical Standards Officers** underpins their independent judgments, but in practice also means that administratively they appear "not under command", which may not help the SBE to manage its resources.

13. More seriously, if an ESO finds a breach of the Code but does not refer the case to Tribunal, the ruling is a matter of public record (and published on the website), which may damage a councillor's reputation but where he or she is allowed no challenge or defence—we think in contravention of natural justice. A recent local example was where a builder took part in a general discussion about planning legislation without declaring the fact that he was a builder. He was found (by the ESO alone) to have breached the Code by not declaring a personal interest, and that judgment remains on the public record.

14. **The process of investigation leaves something to be desired.** The first a prominent Herefordshire councillor knew of a recent complaint against him was when he received a letter saying that it would not be proceeded with. Conversely, we are aware of cases in the County when it was from friends and colleagues that councillors first heard that inquiries were being made about them following a complaint. And if a complaint is referred for investigation, councillors are told that they must keep the matter confidential, which is often a cause of considerable stress. These factors do not help the credibility of the system.

15. **The time taken for investigations is much too long.** This is probably primarily a resource issue, but it is causing real concern. Our first case referred for local determination arises from a complaint made on 15 August 2003. The matter was referred to us on **5th November 2004— more than fourteen months later.** The minimum times required between stages of a local determination mean that we are

unlikely to be able to dispose of the case until late January 2005. This does not build confidence in the process.

16. **As we noted above, several of these factors are part of the regulatory framework; they are thus outside the Board's control, but may make its task much harder.**

17. There is one area where we would like to see the Board being **more proactive: in the issuing of national advice on particular areas of difficulty.** Current examples are whether a councillor with a prejudicial interest in a planning application may employ an agent when the application is considered by a planning committee (the *Richardson* case); and the use of council resources, especially the interpretation of the Local Government Act 1986 as it affects the use of council IS/IT facilities to disseminate party political material. The SBE has given its view at our request; but proactive published advice would ensure consistency of approach by standards committees country-wide.

CONCLUSION

18. We are well aware that Select Committees appreciate concise submissions. This memorandum is therefore short, but we would of course be delighted to expand upon it in oral evidence if the Urban Affairs Sub-Committee so wished.

The Standards Committee of Herefordshire Council

November 2004