



STANDARDS COMMITTEE

— Agenda —

**WEDNESDAY
05 OCTOBER 2005**

7.00 PM

**COMMITTEE ROOM 4
HAMMERSMITH
TOWN HALL
LONDON W6 9JU**

Membership

Mr. Steven Moussavi (Chair)
Mr. Christopher Troke
Mrs. Grace Moody-Stuart
Councillor Colin Aherne
Councillor Chris Allen
Councillor Nicholas Botterill

If you require further information relating to this agenda, please contact the Co-ordinator:

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jpc/27/09/05

STANDARDS COMMITTEE

—Agenda—

05 OCTOBER 2005

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|-------------|--|----------------|
| 1. | MINUTES – 15 MARCH 2005 | 2 – 7 |
| 1.1 | Matters arising (if any) | |
| 1.2 | To confirm and sign the Minutes of the meeting held on 15 March 2005 as an accurate record. | |
| 2. | APOLOGIES FOR ABSENCE | |
| 3. | DECLARATION OF INTERESTS | |
| 3.1 | If a Councillor has any personal or prejudicial interests in a particular report, they should declare the interest. | |
| 3.2 | A Councillor should not take part in the discussion or vote on any matter in which they have a prejudicial interest. They should withdraw from the meeting while the matter is under discussion unless the disability to discuss the matter has been removed by the Standards Committee. | |
| 4. | STANDARDS COMMITTEE CONSTITUTION & TERMS OF REFERENCE | 8 – 10 |
| 4.1 | The Committee is asked to note its revised Constitution and Terms of Reference. | |
| 5. | 4th ANNUAL ASSEMBLY OF STANDARDS COMMITTEES | 11 – 32 |
| 5.1 | The Committee to receive the Chair's report and feedback from the 4 th Annual Assembly of Standards Committees held in Birmingham on 5 & 6 September 2005, and to note the Standards Board's response to the review of the Code of Conduct (set out at pp.22-26 of the agenda). | |
| 6. | ETHICAL HEALTHCHECK INDICATORS/ WORK PROGRAMME | 33 – 35 |
| 6.1 | The Committee to consider a set of proposed ethical standards indicators and work programme designed to allow it to take the "ethical temperature" of the authority. | |

STANDARDS COMMITTEE

—Minutes—

15 MARCH 2005

Present:

Mr. Christopher Troke (Chair)
Mr. Steven Moussavi
Ms Rafela Fitzhugh
Councillor Colin Aherne
Councillor Chris Allen
Councillor Nicholas Botterill

| ITEM | | ACTION |
|--------|---|-------------------|
| | INTRODUCTIONS | |
| | The Chair welcomed to the meeting Alison Kelly – National Lead Ethical Governance, Audit Commission; Les Kidner – District Audit Manager; John Mann – independent Chair, Brent Standards Committee; and Nav Mandair, independent Vice-Chair, Brent Standards Committee. | |
| Item 1 | MINUTES - 10 NOVEMBER 2004 | PAD(JPC) to note. |
| | RESOLVED - That the minutes be confirmed and signed as an accurate record. | |
| Item 2 | APOLOGIES FOR ABSENCE | |
| | No apologies for absence were received for this meeting of the Committee. | |
| Item 3 | DECLARATIONS OF INTEREST | PAD(JPC) to note. |
| | No declarations of interest were made by members at this meeting of the Committee. | |
| Item 4 | 4th ANNUAL ASSEMBLY OF STANDARDS COMMITTEES | |
| | Noted the 4 th Annual Assembly of Standards Committees would be held on 5 & 6 September 2005 at Birmingham ICC. | |

RESOLVED – That Mr.Moussavi and Councillor Allen (or, alternatively, Ms.Fitzhugh’s successor) be nominated as the Council’s two delegates to the Standards Committees Conference.

PAD(JPC) to make reservation with organisers.

Item 5 **COUNCIL’S CONFIDENTIAL REPORTING CODE (WHISTLE-BLOWING POLICY)**

Noted the Monitoring Officer’s report and update on this issue. The council’s whistle-blowing policy had been introduced in 1999 and was based on the model approved by the organisation “Concern at Work”. The Committee was advised that since the last report, the whistle-blowing policy had been invoked just twice. This was comparable to the 3 cases covered in the previous report to the Committee 3 years ago, which had spanned the period 1999 – 2001.

Noted that minor changes had recently been made to the policy to update it to take account of the Council’s new Anti-Fraud initiative, and that the policy was shortly to be re-launched and re-issued as the “Whistle-blowing Charter”. The re-launch would be carried out within the context of a further awareness-raising exercise, so that all staff and contractors working for the Council were made aware of the policy and when and how it should be used.

DPA(HP) & DF(JW) to arrange

RESOLVED- That the Monitoring Officer’s report and update on the whistle-blowing policy be noted.

Item 6 **THE COUNCIL’S ETHICAL FRAMEWORK POLICY**

Noted the report and AV presentation on the ethical health-check of the Council recently undertaken by Alison Kelly of the Audit Commission. The ethical health-check had been devised by the Audit Commission in conjunction with the Standards Board for England, following research which suggested a correlation between a strong ethical framework and good governance. For this reason, the promotion and maintenance of high ethical standards had been made a key element in Council’s Comprehensive Performance Assessments (CPA) for 2005.

While recognising the Council’s “excellent” 3 –year CPA rating and the fact that it had adopted modernised political structures and established a Standards Committee at an early stage, the Audit Commission’s view was that, for the next stage of development in ethical governance, the Standards Committee needed to consider what further steps could be put in place to strengthen the Council’s ethical governance arrangements – i.e. how to draw together the whole range of ethical, governance

and probity issues, and promote them internally and with external partners and stakeholders.

By way of example, the Audit Commission felt that the Standards Committee itself could benefit from having a forward work programme; that information concerning potential internal ethical, governance, conduct and probity issues should be received by the Committee in a more timely and systematic manner; and that the Committee should take a more pro-active approach in promoting high ethical standards both within the council and with external stakeholders and partners. It was also suggested that high ethical standards could be promoted and strengthened if briefing sessions were held with prospective Councillors about the standards which would be required of them were they to hold public office; and if the Administration and Opposition parties on the Council developed ways of working more constructively with each other.

Following consideration of the Audit Commission's suggested action points, all members of the Committee expressed concern and reservations about the change in nature of the Committee's remit from that when it was first established, and the "mission-creep" that now appeared to be taking place to expand that original role.

In particular, Councillor members on the Committee were unanimous in their rejection of the Audit Commission's suggestion that the Committee consider a role for itself in briefing prospective candidates for election on the standards to be expected of them in public office. Members felt this role better suited to the political parties themselves, as candidates had no particular "locus" prior to actually being elected, and the parties already undertook significant vetting of candidates for election as part of the overall candidate selection process.

Likewise, the suggestion that there was a lack of constructive dialogue between the two parties on the Council was also rejected, as on the council's scrutiny panels for example, the parties co-operated fully with each other in a constructive and non-partisan way, and reached decisions and views largely by consensus.

Nor was it accepted that the role of the Committee, as envisaged by District Audit and the Audit Commission, was to gather and concern itself with the detail of management information or key performance indicators, and the suggestion the Committee undertake this sort of role was unanimously rejected by members. Members did, however, accept the suggestion that the Standards Committee could benefit from having a forward work programme drawn up. But otherwise, members felt there were mechanisms already in place elsewhere within the council's structure, such as the Leadership

scrutiny panel, which were more appropriate forums for scrutinising and dealing with issues such as internal audit investigations, or the numbers of Ombudsman complaints received by the council.

Members also considered the Monitoring Officer kept them adequately informed of any potential ethical or probity issues which might arise within the council (subject to any restrictions placed on release of that material by the Standards Board), and were content with his current performance of this role.

RESOLVED:

1. That the Audit Commission's report and draft action plan be noted.
2. That a forward work programme for the Committee be drawn up, and placed as a standing item on future Standards Committee agenda. PAD(JPC) to note & action
3. That the Monitoring Officer firm up the Council's responses to the Audit Commission's draft action plan, for clearance with the Chair / other Councillors prior to submission. DPA(HP) to action

Item 7 **STANDARDS COMMITTEE DISPENSATIONS**

Noted the report of the Deputy Monitoring officer on the issue of grant of dispensations by the Standards Committee.

The Chair reminded the Committee that independent members in particular, had had concerns about the current process by which the Committee granted dispensations in relation to the Planning Applications Committee, and had requested the Head of Legal Services, as Deputy Monitoring officer, to bring forward options by which independent members' concerns regarding this process could be addressed.

The Monitoring Officer had previously written to members to clarify that where a minor planning application was submitted by a member that satisfied the normal rules for the use of officer delegated powers, it would be determined and dealt with in that manner. However, not all applications could be dealt with via this route.

The solution proposed to independent members' concerns was for the Planning Applications Committee member(s) to appear before the Standards Committee, so that the Committee members could, through questioning, assess for themselves the nature and depth of these members' "friendships" with their fellow Councillors. It was also deemed essential that the practice of submitting standard pro-forma letters should cease,

and that an individually drafted, personalised letter to the Committee be submitted instead.

Councillor members on the Committee did not feel it was practical, nor necessary, for the Planning Applications Committee member(s) to appear before the Standards Committee, as the question of whether or not they were a “friend” of another Councillor was a personal one and not a decision that could be determined by the Standards Committee, as it could not substitute its judgement for that of the individual member(s). It was however accepted that part of the problem related to the use of standard pro-forma letters, and it was agreed that, in future, this practice should cease.

RESOLVED:

1. That the report of the Deputy Monitoring officer be noted.
2. That members would , in future, submit individually drafted letters seeking dispensation, and would more forensically examine the nature and extent of their personal “friendships” with other Councillors before submitting.

All Councillors to note & action for future.

PAD (HP/MC) as Monitoring Officers to note.

Item 8 **REVIEW OF THE MEMBERS’ CODE OF CONDUCT – A CONSULTATION**

Noted details of a consultation on the Code of Conduct issued by the Standards Board for England on behalf of the ODPM, and the 29 key questions that formed its core . Noted that a response to the consultation was being sought from authorities by 17 June.

Following discussion of the key questions posed amongst members, it was agreed to submit the draft response as set out in the report to the Committee, subject to the following amendments:

- In all instances where a key question was posed by the Standards Board in two or more parts, the given response should not be preceded with a “yes” or a “no”, but should categorically refer to its subject matter (danger otherwise of misapprehension of the response).

PAD(MC) to note and amend draft response as appropriate

Re: Q7 - On a vote taken on the draft response (that the Code should continue to apply to a member’s private life):

For – 4
Against – 2
Abstentions – 0

Re: Q8 – On a vote taken on the draft response (that the application of the Code should continue to be a broad provision, and not just restricted to criminal activity):

For – 4
Against – 2
Abstentions - 0

Re: Q.12 – On a vote taken on the draft response (that the Code provision requiring members to report breaches of the Code should be narrowed):

For – 2
Against – 4
Abstentions – 0

RESOLVED – That the draft response set out in the Committee report, as amended appropriately, be submitted to the Standards Board for England as this authority's response.

PAD (JPC) to note & action

Item 9 **VOTE OF THANKS**

The Chair moved a Vote of Thanks to Ms.Rafela Futzhugh, who was resigning from the Committee due to family and new work commitments.

On behalf of the Committee, the Chair thanked Ms.Fitzhugh for all her contributions to the work of the Committee over the past 3 years, and wished her every success in her new job.

RESOLVED: – That the Vote of Thanks be unanimously agreed and so minuted.

PAD (JPC) to note & action

Meeting began 7:00 pm
Meeting ended 8:55 pm

Chair.....

jpc/29/03/05

5 OCTOBER 2005

STANDARDS COMMITTEE CONSTITUTION & TERMS OF REFERENCE

ALL WARDS

The first item of business at the start of each municipal year is for the Committee to note its constitution and terms of reference.

The Annual Council meeting on 25 May 2005 approved revised terms of reference for the Standards Committee, and these are **attached** for members' information.

The Standards Committee Appointments Panel also met on 14 June 2005 to consider applications received to fill the vacancy of independent member on the Standards Committee.

Following interview and due consideration, the Full Council meeting on 29 June 2005 agreed that **Mrs. Grace Moody-Stuart** be appointed to fill the vacancy of independent member on the Standards Committee.

CONTRIBUTORS

ACE (P&P)

RECOMMENDATION:

That the Committee notes its Constitution and Terms of Reference (Appendix 1).

STANDARDS COMMITTEE
TERMS OF REFERENCE

1. CONSTITUTION

1.1 The Standards Committee shall be appointed by the Council under Section 53 of the Local Government Act 2000

1.2 The Constitution of the Committee may be amended in the light of further Regulations and guidance from the Secretary of State and/or the Standards Board for England.

2. MEMBERSHIP

2.1 Membership of the committee shall be appointed by the Council and shall consist of:

3 Councillors (2 Administration, 1 Opposition, excluding the Leader and Cabinet members)

3 independent members (appointed by the Council on a simple majority after recommendation by the Standards Committee Appointments Panel)

3. QUORUM

The quorum for the meeting shall be 3 members, one of whom must be an independent member.

4. VOTING

4.1 All members of the Committee shall have voting rights. In the event of an equality of votes, the Chair shall have the casting vote.

5. CHAIR

5.1 The Committee shall elect its own chair, with the intention that this shall be one of the three co-opted independent members on rotation.

6. PROCEDURES

6.1 Council Standing Orders (as applicable to committees) shall apply at meetings of the committee.

6.2 Meetings of the committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

7. TERMS OF REFERENCE

7.1 To promote and maintain high standards of conduct within the Council by Councillors, Co-opted members and employees, and to oversee the Council's ethical framework.

7.2 To assist members, co-opted members and employees of the authority to observe the authority's Codes of Conduct (Councillors Code and Staff Code of Conduct). To oversee and monitor the application of the Council's local protocols and to recommend to Council any changes or additions needed.

7.3 To oversee the preparation and dissemination of advice and guidance on matters relating to the Councillors' Code of Conduct, and to review arrangements for Councillor training in this area.

7.4 To receive an annual report on the operation of the Council's Confidential Reporting Code (whistle-blowing policy).

7.5 To consider and advise on any matters relating to the Council's ethical framework, and to draw up a forward programme of work, so as to ensure effective oversight of such issues.

7.6 To grant dispensations in accordance with the Relevant Authorities (Standards Committees) (Dispensation) Regulations 2002.

7.7 To consider and determine allegations of breach of the Code of Conduct referred by an Ethical Standards Officer, and to investigate and determine allegations of Councillor misconduct referred by the Standards Board for England.

7.8 Other functions from time to time as agreed appropriate by the Council

**Report on
Fourth Annual Assembly of Standards Committees
5-6 September 2005, ICC, Birmingham**

Over 800 delegates attended the two day assembly.

A Vision for Local Government

Mr Woolas MP, Minister for Local Government thanked all of those involved in the work of the Standard Board for their work and effort. 'You are the gatekeeper – making sure only high standards of conduct stay in and anything else goes out. It's only by having high standards that we can make certain that there is a bond of trust between local government and members of the public that councillors represent.

Today's event is the first annual conference since you have had responsibility at a local level for investigating and deciding the outcome of allegations of misconduct. It is early days and we will need to build up experience and develop expertise, so you and the public have complete confidence in the ability of the system to work. It would be wrong to see your main role as one of policing or acting as a local court of some description in dealing with misconduct. The most important part of the job is to create in each local authority a culture of high standards of conduct. That means putting in place the right training and guidance, and making sure the code of conduct is kept up to date and fit for purpose.' *(For complete speech transcript, please see attached)*

Making it Happen

David Prince, Chief Executive, The Standard Board for England, gave a round up of events over the past year, including an update on the review of the Code of Conduct, and the need to focus on local responsibility for ethical standards.

Mr Prince reported that SBE have focused on the most serious cases and determinedly weeded out the frivolous, vexatious and politically motivated cases. This was done quickly - on average, within ten working days. He predicted that half of all cases would be investigated or determined locally by 2007. He pointed out that they have speeded up case handling. The target is 3 months maximum.

Mr Prince brought up the subject of "Reviewing the Code" : based on 1200 responses.

Overriding aim: A simpler, enabling code

General Conclusions

- The Code should be clearer, simpler and more positive.
- How it is enforced, nationally and locally, is as important as its content.

The ten general principals set out in the Relevant Authorities (General Principals) Order 2001 should be included as a standard to be attained). *(Complete speech transcript is attached.)*

The way forward

Patricia Hughes, Deputy Chair, The Standards Board for England, mentioned the success of the Standards Board in meeting targets on decisions as to whether to investigate claims and progress in moving towards the target of 90% for completion of investigations.

Mrs Hughes acknowledged the potential of local filtering to increase a sense of local ownership. She spoke about the code review and the various proposals for change including those involved in respect of the definitions of personal and prejudicial interests. The role of the monitoring officer vis a vis ethical standards officers was

discussed and also the possibility of setting up external panels from which investigators could be drawn to ease the burden some committees were experiencing with time consuming and resource intensive investigations. The shift in balance between central and local responsibility for investigations and hearings will continue in the coming year. Types of hearing were mentioned as well as alternative approaches such as mediation in cases of member behaviour where an investigation may not be appropriate.

The basic issue is that of raising public confidence in local democracy.
Complete speech transcript is attached.)

I chose to attend the following workshops:

- The practice - 2 sessions
- Hearing : The Theory
- Beyond the Code
- Reaching the right decision

The practice (session 1 and 2) workshop

The presentation examined the technical aspects of the investigation process from the framework that local investigations work within, to establishing the key competencies and components of a good investigation.

Hearing : The Theory

The Legal Framework (Statutory materials)

Like all public bodies, the standards committee has an obligation to ensure that its hearings are procedurally fair. The two basic principles contained within the concept of "procedural fairness" of common law are the right to a fair hearing and the absence of bias.

Reaching the right decision

Practical case studies were used to explore decision-making by the local standards committee. The process of investigation and drafting a fair report to enable the standards committee to consider the case was discussed.

Delegates worked in groups to consider a series of investigation scenarios based on several problematic/topical areas of the Code of Conduct.

Beyond the Code

This session emphasised the importance of role of the Standard Committee's Chair and elected members to "ask" at any level of the Council.

Steven Moussavi
Chair
LBH & F Standards Committee

**Fourth Annual Assembly of Standards Committees
5-6 September 2005, ICC, Birmingham**

A Vision for Local Government

Phil Woolas MP, Minister for Local Government

Thank you for inviting me to speak at your Annual Assembly this year. It is delightful to see the huge attendance at the conference.

Here we are in Birmingham, at the heart of England. I want to thank all of you who are involved in the work of the Standards Board. Much of the work that is done is voluntary and it shows a cross-party commitment to a healthy local government democracy. For the work that you do and the effort that you put in, I thank you all sincerely on behalf of the Government.

You are the gatekeepers – making sure only high standards of conduct stay in and anything else goes out. It's only by having high standards that we can make certain that there is that bond of trust between local government and members of the public that councillors represent.

That trust is vital, I think we're all agreed on that and we share that commitment to local democracy. That means that in a age when it would appear that people take part less in voting, and many people take part less in civic life, that our work is even more important. There is very worryingly an apparent growing divide between those that have the education, the means, who are articulate, who can take part even more in civic life- and the majority of the public who seem for whatever reason not to wish to take part. I believe the existence of a healthy and strong Standards Board is a prerequisite towards increasing that trust.

If the trust between members and the people they serve is missing, people will not invest their time and energy in taking part in the democratic process. For that to happen I take it as read that the starting point is to ensure our elected representatives follow the highest standards of behaviour when serving the public and to ensure that people understand such standards are the norm not the exception.

This point is especially important in the context of the Government's plans for improving neighbourhood participation. Councillors will need in the future to take on a much stronger community leadership role in their neighbourhoods within the wards or divisions they represent. That role as community leader will mean they have a much greater say in decisions affecting their neighbourhoods and the services that the public who live there receive, whether that be a rural parish area or an inner city urban area. For example, councillors may well find themselves managing community assets and running community projects. So the need for trust and reconnection, and therefore a strong ethical context will be greater in the future than it is now. I read in the local government newspapers last week that some of my colleagues in Parliament think that the Standards Board should be abolished. Let me say on the record that that is not my view and it is not the view of the Government. The Standards Board is improving and it is here to stay. It is a necessary requisite to building trust in local government and reconnecting the public with the democratic institutions.

Today's event is the first annual conference since you have had responsibility at a local level for investigating and deciding the outcome of allegations of misconduct. It is early days and we will need to build up experience and develop expertise, so you and the public have complete confidence in the ability of the system to work.

But this is only part of the story. It would be wrong in my view to see your main role as one of policing or acting as a local court of some description in dealing with misconduct. The most important part of the job is to create in each local authority a culture of high standards of conduct. That means putting in place the right training and guidance, and making sure the code of conduct is kept up to date and fit for purpose.

So the number one task is not to pursue misconduct, whatever the impression is given, but to create an environment where misconduct does not arise or, on the few occasions where it does, it is a rare exception to the norm. The expected norm is of course a high standard of conduct throughout local government.

But to embed that culture properly it is not just a matter for standards committees and monitoring officers. You cannot do this on your own – the whole council must take ownership of this agenda. The political leadership must set a good example. All members and managers must not only actively promote high standards but also challenge inappropriate behaviour when they see it.

I know some of you have felt frustrated in this regard. You have been left wondering whether or not you have a real job to do, and whether the national framework is too centralised and top-down to allow for local decision-making. These were the thoughts of the recent report of the Graham Committee on Standards in Public Life. I am sure Sir Alistair Graham will be telling us more about that shortly. I should at this point put on record my thanks to Sir Alistair for the work he's doing in this regard.

In parallel with the Committee's study and report, the Standards Board has over the last year undertaken a review of the code of conduct for members. This was done at the request of my predecessor, Nick Raynsford. I am very grateful to the Board for the work it has carried out on this. You will be finding out more about the Board's conclusions from the review today and tomorrow. I won't comment in detail- it would be wrong of me to do so now- except to say that I find it very encouraging that David Prince's session is called "making it happen". I look forward to receiving the Board's full conclusions in due course.

You will also know that the ODPM Select Committee looked at this aspect of local government last year and we need to take their conclusions into account too.

Altogether we are amassing an impressive body of evidence on which to decide the best way forward. I know many of you have contributed in some way to this already and I am grateful for the input you have made to the Board's review of the code. It is your views I want to hear. I would very much value your feedback on the direction of travel you would like to see emerging from the review of the code of conduct, as well as the reports of the Graham Committee and the Select Committee.

This event gives you the ideal opportunity to discuss what it all means in practice, whether you think different options will work or not, and where are the pitfalls, where are the unintended consequences. There are some very difficult issues here but I know you are the people on the ground who can and will 'make it happen'. I should at this point pay compliment to the delegation from Oldham Borough Council who I know have given a lot of thought and effort to this, not just to undertake their work but to help me undertake my job as well.

Once I have received the Board's detailed recommendations, the Government will be in a position to review the whole conduct regime for local government. We will bring together all the pieces of the jigsaw – the recent reports and reviews and your comments. This will give a well-rounded picture of the current system.

As I have already said, you, here, are the key to securing the outcomes we all want to see. Let us just take a moment to summarise the key themes we need to look at.

First, we want to see a consistently high standard of conduct by council members. This is the 'culture challenge'. We all know that poor standards by a very small minority- sometime just one or two people- can severely damage the reputation of a whole council and with it the whole of local government. It is our ambitious goal to avoid that.

Second, allegations must be dealt with quickly and all parties must be treated fairly. We cannot afford to let issues hang in the air, it's damaging for the individuals concerned, for our reputation of local government and indeed I think the reputation of politics generally.

Next, where misconduct is proved, it must be dealt with quickly, firmly and effectively. And it must be seen to be done so as well.

Finally, we must make sure that if allegations are vexatious and the motivation behind them is personal or overtly political gain – in other words nothing to do with a genuine belief that a member is not behaving as he or she should be – then that type of allegation must be thrown out immediately. We must not allow innocent parties to suffer from this and we must not allow the reputation of politics and democracy to suffer from this. What's more, we must send out a strong message that there is nothing to gain in making vexatious complaints. Our message should be "if you try it on, the whole process will more than likely turn on you instead". I think we need to be rigorous about this.

I feel very strongly about this last point. All too often a vexatious complaint becomes a media fest, I know as a parliamentarian that that is the case. When we have these media fests they run and run, becoming increasingly difficult to put things right for innocent parties. We all know the media love a bad story about people in positions of trust so they can provide a ready vehicle for spreading unfounded allegations. Of course the process must be open and transparent. But it must allow people to be judged through properly collected and assessed evidence, and not through the media. Proven wrongdoers are fair game – victims of unfounded allegations are not. I think trial by media is one of the big problems that politics faces in democracies in the modern world.

This is another reason why speed in resolving cases is vital, as is your expertise in handling the situation and striking the right balance. This combination will lead to people making vexatious complaints finding they get all the wrong sort of publicity for all the right reasons.

Finally, I think we need to clarify the issues of advocacy and conflict of interest. Sometimes councillors are unintentionally put in a position whereby they're debarred from carrying out their responsibilities because of the fear of a conflict of interest, or the perception of a conflict of interest. We need to look again, as I know you are doing, in the Review of the Code at the role of the councillor in third party organisations and the freedoms and flexibilities, as well as the responsibilities of councillors who are members of third parties, who are then debarred from advocating the causes of those third parties in their work as councillors.

While I mention the subject of handling cases speedily, I would just like to say that I recognise and all at ODPM are very grateful for the hard work the Board has put into improving turnaround times for cases. The Board has made considerable progress on this which will be reflected in the performance indicators achieved this year.

At the same time, I recognise that the present arrangements do not always help when it comes to achieving all the outcomes we want to see – and which I summarised just now. It may be that an approach along the lines being recommended by Sir Alistair may serve us better.

Some authorities have raised concerns about how they can resource a more locally-based conduct regime. This is particularly true for authorities with a large number of parish councils who play a very important part in our political and democratic life. Again we need to hear your views before deciding the best way forward on this.

Of course we can also look for ways in which the code of conduct for members may serve us better. The Board's review is coming up with a number of possibilities here. These include making the code simpler and clearer. It could also have more local input so you as councillors feel it is **your** code. It needs to encourage and support members in their important community leadership role, speaking out for their neighbourhoods and representing their interests to the council and beyond. I hope that it's recognised in these deliberations that there is perhaps a dilemma, or even a paradox, between ensuring that we have local ownership of the regime and ensuring that we have consistency across local government.

The code also needs to provide more clarity about when it is appropriate for information to be confidential and where the public interest may be served by whistleblowing. The system needs to encourage substantive complaints, not vexatious complaints, to be brought forward. The Board's proposals on these and many other important issues will, I hope, put us on the way to a more sensible and proportionate regime that will deliver the outcomes we want.

So what is the prize when we succeed? How does it all fit into the bigger picture? I believe we have a real opportunity now to improve life in our communities and give people a better future – particularly those with a long list of disadvantages. Building sustainable communities – places where people not only want to live and work but places they are proud to call theirs – is our goal. Local government is at the heart of delivering this agenda:

As you know we are currently engaged in a debate about how local government should change to take up this challenge in the future. That has a way to go yet but some clear principles are emerging.

Local area agreements are already putting some of the principles into practice with their focus on delivering in partnership with other public, private and voluntary sector organisations, breaking down public service silos, and delivering for the whole area in which they're active. Local government as the only body with a democratic mandate for a particular area is the first amongst equals in this partnership. With pooled and aligned funding which the new local area agreements have- and our goal is that by April 2007 every local authority area in England should have one- shows a commitment to devolve responsibility to and through town halls, county halls, parishes and elsewhere.

I have already mentioned our plans for empowering neighbourhoods, with councillors providing that all-important community leadership role. And there are many other aspects under discussion.

On a wider scale, my colleague David Miliband has spoken about the need for a new social contract and a new political contract in our modern society. Contracts I think work best when there is trust between the parties and a commitment to a shared vision. That vision for our local communities is built on mutual respect and social cohesion. People elected to be community leaders cannot play their part in delivering this vision without an unshakeable reputation for high standards of conduct in public life.

That is why the role you play is a key part, not just of the ethical regime of your local area but within the very big picture of reengaging democratic politics with the citizens of our country sixty years after the end of the Second World War. I know that together with the Board you have already achieved a great deal but I have no

hesitation in saying there are difficult challenges ahead. The prize is worth it and I have every confidence in you to do that. In many ways we have reached a watershed, but there is a firm foundation to build on and a very worthwhile job ahead. Now we need to make the right decisions – and that is where you come in too by sharing strongly and forcefully your views with us.

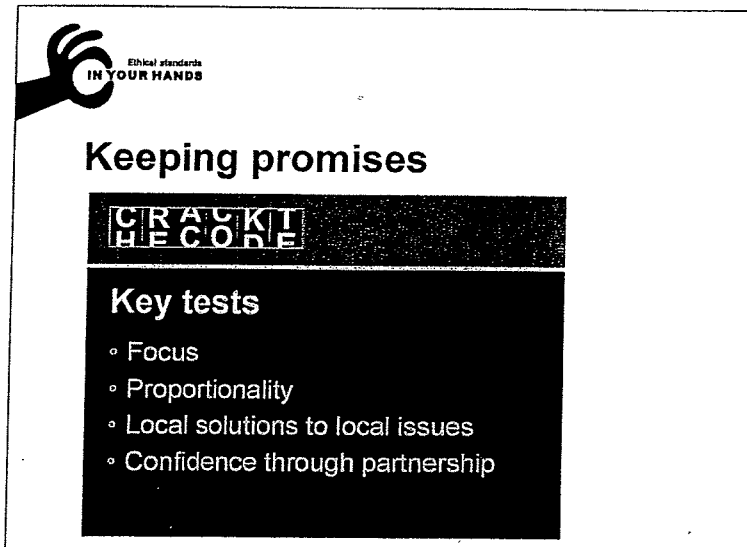
So thank you for listening and I hope you have a very enjoyable and productive event. Thank you.

Fourth Annual Assembly of Standards Committees 5-6 September 2005, ICC, Birmingham

Making it happen
David Prince, Chief Executive
The Standards Board for England

At last year's conference I made a number of promises. I'm going to say what we've done to keep those promises. I'm also going to tell you about the outcome of our consultation on the review of the Code of Conduct. Then it will be time for a few more promises.

Those of you who were here last year will recognise the inset slide.



**Ethical standards
IN YOUR HANDS**

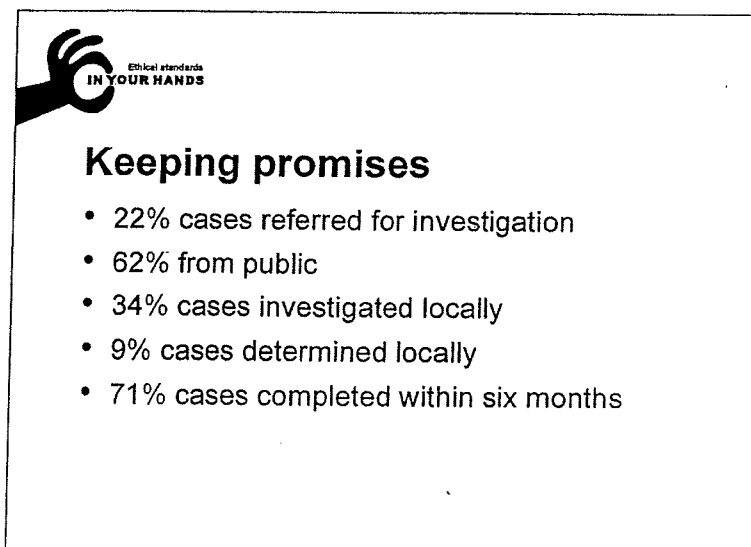
Keeping promises

CRACK THE CODE

Key tests

- Focus
- Proportionality
- Local solutions to local issues
- Confidence through partnership

We promised regional events where you could hold us to account against these tests. Over the year, we held eleven roadshows up and down the country. We spoke to around 1,000 standards committee members and monitoring officers, as well as to leaders and chief executives in ten linked events.



**Ethical standards
IN YOUR HANDS**

Keeping promises


- 22% cases referred for investigation
- 62% from public
- 34% cases investigated locally
- 9% cases determined locally
- 71% cases completed within six months

And I am pleased to report that we have focused on the most serious cases and we have determinedly weeded out the frivolous, vexatious and politically-motivated cases.

And we've done this quickly. On average, we now process new complaints within ten working days.

We said we would go for local case handling wherever possible. Since January, 34% of cases have been referred for local investigation. Another 9% of cases have been referred to local standards committees for local determination. We predicted that half of all cases would be investigated or determined locally by 2007, and with your support we are well on track.

We have speeded up our case handling. Since April, we cleared 46% of cases within four months and hit 65% in July, both ahead of our target of 40%. We aim for 90% of cases cleared in six months, and achieved 71% last quarter, 79% in July. We are edging closer to our 90% target every month.



Ethical governance toolkit

- How well is the council meeting the ethical agenda?
- Where can improvements be made?
- How well is it meeting CPA measures?
- How can the council ensure sustained good ethical governance?

Prevention is much better than cure. The successful local ethical agenda is the one owned and driven locally, the one that is part of the day job and the way things are done daily. That is why we have worked with the IDeA and the Audit Commission to jointly badge the Local Government Diagnostic, and why the ODPM has provided support through the local capacity building fund. It consists of a comprehensive audit, a member survey and interactive workshops.

Culture starts from the top. Which is why we have been working with leaders and chief executives. Their relationship and behaviour set the pattern for the entire authority. If ethical behaviour is on their agenda it will be on everybody's.



CPA – key lines of enquiry

Officers and members:

- treat each other with respect
- are clear about their ethical responsibilities
- exhibit the behaviours expected of them

That is why we have worked with the Audit Commission to add an ethical component to the capacity section of the new Comprehensive Performance Assessment. These are the essential tests.

We too have been scrutinised, as all regulators should be.



Graham Committee and ODPM Select Committee

Key questions:

- strategic regulator?
- local filtering?
- independent chairs of standards committees?
- more support and training?

We welcome Sir Alistair Graham's report and he will speak for himself. We also welcome the ODPM select committee's report. We will do all we can to implement the decisions the Minister has promised on both reports.

We are already rapidly turning ourselves into a strategic regulator, focusing on the most serious cases, reducing the size of our investigations team and refocusing our resources to support you in your core purpose of improving confidence in local democracy.

Central to this is the revision of the Code of Conduct. Thank you for your 1,200 thoughtful and thought-provoking responses. These were your headline messages.



Reviewing the Code

- 'A simpler, enabling Code'
- 'Councillors able to be community advocates'
- 'Confidentiality to be defined by the *Freedom of Information Act*'
- 'Public interest to be a defence'
- 'Personal and prejudicial interests to be simplified'
- 'Private life only an issue if a serious breach is concerned'

We have analysed your responses and agreed the scale and scope of change. We have shared this direction of travel with the Minister. Copies will be available outside and on our website. *[The report follows this transcript.]*

The devil is in the detail, but our overriding aim is to simplify and to liberalise. To underpin effective local democracy as it is experienced by local people and local communities. The way the Code of Conduct is applied is as important as what is written in it. That is as much a challenge for monitoring officers as for us. The clearer and simpler the Code, the easier it will be to get right in both the spirit and the letter.



Now it's your Code

And here is my promise this year.

As we remain committed to improving our own performance, as cases are increasingly handled by you locally, as the Code of Conduct increasingly becomes your Code that you have modified, as the need for effective ethical behaviour becomes universally accepted throughout local government, we will increasingly focus on ensuring that you are fit for purpose through support and through challenge.

The responsibility for the ethical agenda lies with us and with you: standards committee members, monitoring officers, chief executives and leaders. It is in your hands.

The Standards Board for England's consultation on the review of the Code of Conduct Recommendations to Ministers

At last year's Annual Assembly of Standards Committees, the then Minister, the Rt Hon Nick Raynsford MP, invited the Standards Board for England to carry out a review of the Code of Conduct in the light of its three years' experience working with the Code. The Minister said that, whilst the fundamental principles which underpinned the Code should be maintained, the Board should see whether there were areas where the Code could be made clearer or more effective.

The Board launched its consultation in February 2005 and consultation closed formally on 17 June. Over 1200 responses were received and an independent analysis of those responses was carried out on the Board's behalf by researchers from the University of Teesside.

This report sums up the Board's conclusions on how the Code should be amended based on its own experience and the consultation responses. The Board's overriding aim was to consider how provisions could be simplified, clarified or liberalised while remaining true to the underlying principles of the Code.

General conclusions

- **The Code should be clearer, simpler and more positive.**
- **How it is enforced, nationally and locally, is as important as its content.**
- **The ten general principles set out in the *Relevant Authorities (General Principles) Order 2001* should be included as a standard to be attained.**

The Government should seek ways to simplify the Code wherever possible, clarify the rules around declarations of interests, and ensure the Code is seen in a more positive light as something which promotes effective local governance in a modern setting, rather than merely being a list of prohibitions of certain types of activity. In particular, the Board recommends that the Government should have the ten general principles on the face of the Code to remind members of the positive values they should be promoting. We believe the Code should, where possible, be written as a positive rather than negative statement. And we believe a better balance needs to be struck between the proper need to protect public decision-making from inappropriate influence, recognition of the key role members play as democratically-elected advocates on behalf of their communities, and the public expectation that members should be allowed to speak up when decisions are being taken which will have a wide impact on the community. This means that the rules governing prejudicial interests need to be reconsidered.

A key theme of the consultation was the need for a consistent application of the rules across the country, and for clear advice so that all members can understand the lines which they should not cross. Simplification of the Code will help to achieve some of this but the Board is committed to working in partnership with national bodies to ensure there is clear and unambiguous guidance to help councillors do their jobs more effectively while maintaining the standards the public has a right to expect.

The key provisions of the Code with which consultees were most dissatisfied were the provisions relating to the declarations of interests and these must be seen as a priority for

the Government. The following section outline the Board's clear view on how the provisions could be improved to strike a better balance between protection of decision-making and the vital role of councillors as democratically-elected advocates on behalf of their communities.

Personal and prejudicial interests

- **There should be greater support for the councillor's role as an advocate for their community.**
- **There should be a reduction in the number of personal interests which need to be declared.**
- **There should be greater local discretion to grant dispensations.**

The Board believes the fundamental principle underpinning the need to declare interests, and in certain cases withdraw from the decision-making process, is a sound one if the public is to continue to have confidence that decisions are taken in the public interest rather than for personal gain and are seen to be done so.

However, there is a concern that the current rules are overly-restrictive (either in reality or in the way they are interpreted locally) and exclude members from discussing certain matters which their communities would expect them to be addressing or even, in certain cases, which they have been elected specifically to address. Given the changing role of most councillors, the Code needs to be seen to be supporting such local advocacy and the democratic right of a community to be represented when key matters which affect that community are under discussion.

In addition, there is a concern that too much time is spent at the start of a meeting declaring a wide range of personal interests which arise solely from the public role of the individual concerned.

The Board believes the following improvements should be made:

- a) The definition of a personal interest should be restricted so that members do not have to declare an interest where it is merely something that affects them no more than a wide community.
- b) Interests which arise solely because a member serves on another public body should be treated differently from interests which arise from a member's private life. Such public service interests should only be required to be declared when a member speaks on a related subject, unless the interest is also prejudicial. It would only be prejudicial if it related directly to the public body (for example, a grant application on its behalf) or was a regulatory decision which directly affected that body or its aims. In such cases, the member should be invited to address the meeting and answer questions on behalf of the body but then withdraw before the substantive discussion so that they are not seen to be influencing the debate.
- c) Prejudicial interests where the member is advocating on behalf of an outside body, such as a charity or local pressure group, should be treated in the way outlined in b) above.
- d) The Government should also give local authorities broader powers to grant exemptions to members with prejudicial interests who nevertheless are speaking on behalf of their constituents.

Register of interests and register of gifts and hospitality

- **The types of interests which need registering should remain unchanged.**

The Board believes that no major changes are needed in this area although it should be made clear that the register of gifts should be publicly available in the same way as the register of interests, and some of the exact wording of the provisions of the register of interests should be re-examined so it is clear to members what interests the Government intends should be registered.

In addition to these important provisions around registration and declaration, the Board has concluded the following points as ways in which the important provisions relating to personal behaviour can be clarified and simplified while remaining true to the Code's underlying principles.

Disrespect

- **There should be a specific provision on bullying.**

The Code should continue to address disrespect. No definition is needed as each case must be considered on its merits. However, the Board's view is that there should be an additional provision in the Code which makes it clear that bullying behaviour, in particular, should not be tolerated. The Board's experience has taught it that, in a small number of cases, there is a culture of bullying of fellow members, of officers and of the public, and a specific provision in the Code would be a strong signal of disapproval of such behaviour. Whilst legitimate challenges of poor performance will always be necessary, some of the behaviour seen by the Board has been unacceptable and the Board would welcome the Government's recognition that such behaviour has no place in modern local government.

Disclosure of confidential information

- **Members should be able to disclose information in the public interest.**
- **The Government needs to consider the impact of the *Freedom of Information Act* on confidentiality.**

The Code should be explicit in allowing members to disclose confidential information where it can be demonstrated that such disclosure is in the public interest. The Board does not wish the situation to arise where a member could technically fall foul of the Code by disclosing information which the authority has decided was confidential when such information would have been accessible under freedom of information provisions. The board believes some in local government continue to treat too much information as confidential and, given the Government's commitment to freedom of information, consideration needs to be given both to how the Code can address this situation and whether the local government access to information provisions need to be revisited.

Disrepute

- **Certain behaviour outside of official duties should continue to be regulated but it should be limited to unlawful activities.**

The Board believes that the Code should continue to cover certain aspects of conduct which do not relate directly to official duties. The Board recognises the views expressed by some that only matters relating to council business should be regulated. However,

some of the private activity that the Board has considered does have the potential to bring a member's authority or office into disrepute so the Board believes that this provision should continue to have some wider application, bearing in mind also that one of the ten general principles is a duty to uphold the law. However, the Board believes the provision could be clarified to demonstrate that it is only unlawful activity committed outside of official duties which should be regulated and not activities of which certain individuals may merely disapprove.

Misuse of resources

- **Local protocols should be enforced locally where appropriate.**
- **Serious misuse of resources, particularly for political benefit, should be regulated nationally.**

Many authorities have effective local protocols governing the use of council resources. All authorities should be encouraged to adopt effective protocols, enforcement of which should broadly be left to the local level, with the Board only becoming involved where there has been alleged serious misuse of public resources. In addition, consultation clearly showed that the main concern was about misuse of public resources for party-political advantage. The Government should therefore consider how to clarify the Code's provisions to better control such abuse, and how it should relate to the existing publicity code for local authorities.

Duty to report breaches

- **The duty to report breaches should be abolished.**
- **There should be protection against intimidation where people do complain.**
- **All involved in the process, including members themselves, need to take greater steps nationally and locally to discourage vexatious complaints.**

The provision of the Code which requires members to report breaches to the Board has been unpopular. The Board believes it had two underlying purposes – to prevent members from turning a blind eye to serious misconduct by their colleagues and to protect members who wished to come forward and report fellow members in spite of pressure to do otherwise. The Board does not believe the present provision achieves either of these aims satisfactorily, and instead has led to members using the provision as a pretext for making trivial allegations to cause mischief.

The Board considered whether the provision should be retained but limited only to allegations of serious misconduct. Whilst this was the most popular option in consultation, on reflection the Board thinks any attempt to draft such a provision would lead to subjective views on what was or was not serious. This would lead to arguments about what should and should not have been reported and would be unlikely to address the concern about trivial allegations. On balance, therefore, the Board believes this provision can be deleted.

However, the two underlying concerns the original provision sought to address need to be dealt with. Whilst the Board believes the vast majority of members would not turn a blind eye to serious misconduct, it believes that for those handful of cases where there does appear to be a serious conspiracy, existing powers in the Code can be used to deal with the issue. The Board is also concerned that members who do report serious misconduct should be protected from victimisation in the same way that employees are protected by

law. One way of doing this would be to have a provision prohibiting intimidation of a complainant or witness and the Government should consider such an option.

In addition, the Board is committed to work with the Government to find further ways of reducing politically-motivated complaints. The Board is particularly concerned about examples it sees of allegations being reported in the local press, often before they have even been sent to the Board. Such activity damages the reputation of local government as a whole, and all concerned need to find better solutions to prevent such mischief. This may be outside the scope of the Code review, but we wish to explore options with Government, representative bodies and local authorities as to how the ethical framework can be used more sensibly to the benefit of all.

Fourth Annual Assembly of Standards Committees 5-6 September 2005, ICC, Birmingham

The way forward

**Patricia Hughes, Deputy Chair
The Standards Board for England**

This conference has heralded a time of some consolidation and much change.

The first area of consolidation I need to mention is that yesterday, the Minister affirmed the importance he places on the drive to improve ethical standards in local government and that, in that context, the Standards Board is here to stay. From our point of view, that, at least, is reassuring.

We noted, however, his caveat about the future — the need to minimise delay, on the basis that justice delayed is justice denied — but we believe that we had good news on that in the progress report given by David Prince:

- We are meeting our target of ten days from receipt of allegation to decision on whether to investigate.
- We have removed completely our backlog of 400 cases.
- Targets for completion of investigations are now moving much nearer to being met. Of our target of 90% for completion within six months, we hit 79% in July and are edging ever closer to the magic figure.

We hope this will have given the Minister the reassurance he was seeking.

The Minister also made it clear he was considering change in a number of areas. One that stood out was his reference to 'local filtering'.

This was, of course, the main tenet of Sir Alistair Graham's presentation. His committee, the Committee for Standards in Public Life, is recommending that in future, decisions on whether to investigate a complaint should be decided locally rather than, as at present, by the Standards Board for England. This would be a task for the local standards committee and only those allegations considered really serious would be referred to the Standards Board. We heard Sir Alistair's trenchant exposition of his committee's case. Notably, he stressed the potential of local filtering to generate local ownership of the ethical agenda. He also took the view that this would tend to take vexatious complaints out of the system and would not necessarily lead to unacceptable inconsistency.

While we accept the strength of the committee's view of the potential of local filtering to increase a sense of local ownership, we are currently less convinced about the argument in respect of the removal of vexatious complaints. After all, the Standards Board's filter already removes about 75% of complaints before they are ever referred for investigation, a fact which Sir Alistair recognised. We are by no means sure that local standards committees confronted with the same sort of complaints would or should act any more rigorously.

There is no doubt, of course, that the Minister will be considering Sir Alistair's proposal very seriously. Equally, I am sure he will be taking into account the recommendations of the parliamentary select committee which considered the performance of the Standards Board and which saw as a unique strength of the system that complaints should first be considered nationally as a means of ensuring fairness and consistency.

Not surprisingly, therefore, this local filter proposal has been one of the talking points of the conference both in formal sessions and in conversation. Concerns have been expressed in particular about resources, in the sense both of the extra capacity that will be needed in terms of legal officer advice to standards committees and of additional financial requirements on the assumption that the proposal would lead to more local investigation. Within this, there is the issue of how extra resource would be fairly allocated given the wide variance in the number of cases that one standards committee might have to consider as against another.

This is clearly a very big issue for us all and one on which strong views are being expressed for both sides of the argument. The key fact at the end of the day will be whether the local filter proposal is one which will increase public confidence in local democracy. It is certainly an issue on which you can expect to be engaged in the coming year. What is not in doubt is that by the time we meet next year we can expect that the debate will have moved much further. One thing, however, is clear already, which is that there is a strong view from this conference that any radical change must be done in a holistic way. When asked about this from the floor, the Minister made it clear that he understood this issue.

The next big issue is the Code review. Last year, we began the discussion on what changes might be made. Since then, we have had the very powerful consultation with over a thousand responses which the Standards Board has taken fully into account in framing its own proposals. David Prince signalled these in his speech and you will have seen them set out in some detail in the attachment to the copy of his speech which you have received.

Let me just touch again on a few of our proposed changes, in particular those which may shed light on issues raised by delegates at this conference. Some of these are indeed proposals for radical change.

Probably the most significant in terms of councillor concerns are the proposals for changes in respect of the definitions of personal and prejudicial interests. We believe that there is a risk that the current rules are over restrictive and can be used to exclude members from even discussing in committee certain matters which their community would expect them to be addressing. These are what could be called public service and community advocacy interests. It is apparent that this one issue is still causing confusion as well as frustration and general difficulty. The Board believes that the definition of personal interest should be restricted further than at present and that interests which arise solely from public service should be acknowledged. We also believe that government should give standards committees broader powers to grant exemptions.

The second proposal is to remove the duty on a councillor to report alleged breaches of the Code, on the basis that this has placed councillors in considerable difficulty whilst proving relatively ineffectual. Our proposal is to replace this with a provision against the intimidation of witnesses and complainants.

Other proposals are in respect of changes to the duty of confidentiality where there is a genuine public interest defence, a specific duty prohibiting bullying, and an amendment moving the current balance on matters concerning private conduct so that the Code only covers private activity which has the potential to bring a member's office or authority into disrepute.

The proposals are now with the Minister for consideration. Again, of course, we do not know the outcome but by next year we should, and we will be pressing the Minister to reach his decision and implement any changes quickly. The aim is for us to have in place a Code which is perceived as fairer, simpler and more positive in its tone but which remains true to the ten principles of public life.

The third big change is what has been the major business of this conference, that is the continuing shift in the balance between central and local responsibility for investigations and hearings. You will have heard that since January this year 151 cases have been referred for investigation locally and that 24% of these have already been completed. There is a presumption on the part of ethical standards officers that cases will be referred locally unless there is a very particular reason why this should not happen — for example, a strong possibility of local bias.

There is no question, therefore, that the shift will continue in the coming year.

Discussion about local investigations and hearings has been the bread and butter of the conference and we are particularly grateful to those of you who have shared your early experiences with the rest of us. Our conference title, *In your hands*, aimed to demonstrate that you have played a major part both in setting the agenda and contributing to its content. We think it has lived up to its name.

As with any new initiative, a large number of issues have arisen on local investigations:

- First is the perception, undoubtedly true, that ethical standards officers have been generous in listening to monitoring officers' difficulties, and in such circumstances have not referred certain cases. This has been because they wished above all to have a smooth transition which monitoring officers found manageable. As I said in a session yesterday, ethical standards officers do intend to become more robust about this in the future in the belief that there has been time for arrangements to be put in place even in smaller authorities with relatively few legal resources. Indeed, we heard from two authorities yesterday who have managed four investigations each so far. From their accounts, they have coped very well, although they did say that they were grateful that the cases came mainly one at a time.
- We also heard about the ongoing issue of potential and actual monitoring officer conflict and the steps being taken to overcome this. There seemed to be a general recognition of the fact that the monitoring officer should, wherever possible, be able to advise the standards committee, and that his or her staff should undertake the investigation. We have been told that the process has not always been easy for the investigators, with some complained-against members finding it difficult to accept the officer's new role, used as they are to regarding the legal officer's role as one of support and advice. This is clearly an issue which monitoring officers will need to consider, particularly in the context of communication and member training.
- It was also abundantly clear that carrying out investigations has been time consuming and resource intensive, and hence not easily compatible with the current role of council legal officers — that is, with their day jobs — and we heard a number of suggestions for remedying this, from collaborating with other authorities to setting up external panels from which investigators could be drawn. We learned from the monitoring officer at Slough Borough Council that the arrangements for collaborative working came a little bit unstuck when colleague authorities realised how busy Slough was going to be in the investigation field. These are obviously matters that will need to be developed in the coming year and the Standards Board will be thinking about how it can advise authorities on this.

On hearings, again, a number of issues arose, including:

- Discussion on the purpose and value of the preliminary hearing. I need to make it clear that there are two types of hearing that are currently going under that title.

The first is a mandatory hearing at which the standards committee decides whether to accept the findings of an investigator's report that there has been no breach, and hence, whether there will need to be a substantive hearing. The second is a true preliminary hearing in the sense of a hearing for directions, which is recommended by the Standards Board in its guidance on hearings in respect of local determinations. This, of course, can be equally applied to hearings following local investigations, and was designed to avoid such difficulties as witness attendance and timing of the hearing and also to ascertain as clearly as possible what evidence was agreed.

We heard that the first type of preliminary hearings have caused some difficulties for Scarborough because they were regarded by the complainant and the complained-against member as possibly the only hearing at which they could put their case. It was, in fact, regarded as their day in court. This suggests the general need for as-clear-as-possible communication to the parties about what, for them, must be a rare and disquieting experience.

The second type of preliminary hearing is regarded by some as rather over-egging the process — and indeed, there was more than one expression of the view that in some cases the process seemed very heavy in the context of the alleged breach. I will come on to that a little more in a minute.

One thing however is clear — many people who had conducted investigations and hearings commented on the usefulness of the Standards Board's guidance, and in particular on the procedure for conducting hearings and the various pro formas attached. Indeed, it has been suggested that the Standards Board should issue more guidance and include standard letters. I think it will therefore have been good news for you to have learned that the Standards Board is to issue a DVD in November which gives practical help in these matters.

Inevitably, the issue has arisen about the balance to be struck between letting people have their say and introducing witnesses that they regarded as relevant, and the expeditious conduct of the matter. This will always be the case, but the evidence so far does suggest that prior clear communication and advanced planning can make the process much easier.

- There has also been some discussion of the merits of the adversarial versus the inquisitorial mode of hearing, because, of course, the regulations allow local authorities to adopt their own approach. There are benefits of both and it will be interesting to see how this works out in the coming year. Independent members have raised the issue of whether they should adopt a traditional more passive judge-like role or whether they ought to be taking part in the examination of witnesses, and indeed, whether they should be cross-examining, and if so, whether they have the necessary skills. These are matters for local determination, the one certain requirement being that there is a clear and well-understood procedure in place.

The Standards Board's advice has been sought about this and also about the right approach to reaching decisions on sanctions. Some delegates say they have looked for good practice on sanctions on the website but had not found a great deal yet. We'll take both those points on board.

- Finally on this, may I reiterate the promise David Prince made in respect of local investigations: that the Standards Board will offer support to monitoring officers and standards committees as they carry out the new function. We will also be monitoring progress and should be able to report back to you much more fully next year.

As well as these major topics, there have been a number of other important issues covered at the conference. The role of independent members has also been a subject of hot debate. It was good to hear about the spreading networks of independent members giving each other support. I had a conversation about the possibility of a national network, and also the idea of a national council of standards committees to act as a national voice. I know some people are very keen on this idea but, also others think that it may dilute their independence. We already convene a meeting of the regional forum representatives and you may want to use that forum to see whether a more formal body is wanted. But the impetus needs to come from you.

There has also been a lot of debate at this conference about the best balance between independent members and councillors on standards committees. There has been discussion about the merits of having an independent member as the chair. We have heard Sir Alistair Graham's strongly-held views on this, based not least on the experience of running his own committee. Our own position is that the most effective standards committee is one where the chair is an independent member, and that there is a majority of independent members, at least for hearing cases, whilst remembering that there must be a crucial role for the elected members.

There were also lively sessions which looked not only at the ways in which standards committees can ensure that they are properly supported and enabled to carry out their new functions, but also considered ways in which standards committees could be active in a wider field. Some examples include oversight of complaints processes, looking at audit management letters and ensuring that standards are embedded into the corporate governance of the authority. Some authorities do this by overseeing training, others have carried out the ethical governance diagnostic, including one example I was given from the London Borough of Hackney which has had an impact on the authority much wider than the standards committee itself and has led to positive proposals for change.

There was also lively, and indeed somewhat heated, discussion, I believe, about the issue of alternative approaches to dealing with member behaviour in circumstances where an investigation may not be appropriate, or appears to be a heavy option. These included mediation and similar informal intervention, perhaps by leading members. There are, of course, difficulties with this, not least because of the impact of the duty in respect of whistleblowing. This is one of the areas that would be remedied by the Standards Board's proposed removal of this section from the Code. However, as always, there are very strong, contrary views to the effect that when a breach becomes apparent the Code should be enforced. I imagine that this is a debate which will go on.

On that point, it will be very interesting to see how the ethical standards officers' new power to direct a monitoring officer to take certain action will develop. This direction may be given as an alternative to a requirement to conduct an investigation and typically would cover such matters as mediation and training. One direction has been given already but we expect more in the coming year.

Finally, there is the one basic issue that we are all committed to, and which has underpinned this conference as it has all its predecessors. That is the issue of raising public confidence in local democracy. We have heard from the MORI research that public confidence in the way local authorities act remains low. We have asked in the keynote debate the question, "will the public ever trust local government?", and the answers covered the whole spectrum of opinion, ranging from optimism through scepticism to sheer pessimism. Overall, public trust was seen as a very complex issue, influenced by the behaviour of many players, the press, central government and the Standards Board itself, as well as by local government. It was certainly a

debate that inspired much thoughtfulness and passion and took us beyond the very real but less enduring preoccupations of today's business.

In the context of public trust and confidence, we have discussed means of engaging the public and communicating good news and we hope these have helped us to tell our story better in the way that was suggested to us in our after dinner speech yesterday evening by Kate Priestley. Ultimately, of course, as the Minister said and many speakers have acknowledged, increasing public confidence in local democracy is in the hands of local government, and standards committees are clearly one of the key custodians of that responsibility. This is why each needs the authority from, and the support of, their council as a whole.

So it looks like a busy and challenging year for you. And certainly an exciting one for the Standards Board. We hope this conference has given you at least some of the support you need to see you on your way, and we look forward to next year when we shall discover how we've all fared.

5 OCTOBER 2005

| CONTRIBUTORS | ETHICAL HEALTHCHECK WORK PROGRAMME | WARDS |
|--------------|------------------------------------|-------|
| ACE (P&P) | <u>Summary</u> | ALL |

HLS (Acting
Monitoring Officer)

At its meeting on 15 March 2005, the Standards Committee considered a report and presentation by the Audit Commission on an "ethical health-check" it had recently undertaken in relation to the ethical governance arrangements adopted by the Council.

The health-check had been jointly devised by the Audit Commission / Standards Board for England following research which suggested a correlation between a strong ethical framework and good governance. As a result, the promotion and maintenance of high ethical standards has been made a key element of all Councils' Comprehensive Performance Assessments (CPA's) from 2005 onwards.

One of the recommendations arising from the Audit Commission's ethical health-check was that the Standards Committee would benefit from having a work programme and that information concerning potential ethical, governance, conduct or probity issues ought to be received by the Committee in a more systematic and timely fashion.

Officers have therefore attempted to draw up a set of proposed indicators (Appendix A) which they believe would give the Committee some measure of what, in general terms, can be described as the "ethical health" of the authority, and from which the Committee can maintain an appropriate overview. These are initial thoughts at this stage, and can be refined further by the Committee if it wishes.

The indicators proposed are a mixture of those that relate specifically to members' conduct, and those that relate to ethical and good practice standards across the organisation as a whole. The indicators will be reported to the Committee at each meeting, on a quarter-yearly basis.

Over time, it should be possible to identify any trends or patterns emerging, and appropriate action can then be taken regarding any areas of concern.

The primary work of the Committee is, and will continue to be, the investigation of misconduct allegations and/or the determination of breaches of the Code of Conduct, as referred by an ESO.

The remit of the Committee however will also encompass the consideration, and periodic grant, of dispensations to members; developing and promulgating suitable training and information for members on ethical matters, especially at the members' induction post-elections (with proposed "refresher" training every two years); the annual review and update as necessary of the Council's Local Protocols as set out in the Council's Constitution; the consideration of the annual District Audit Management Letter; and the receipt and consideration of an annual monitoring report from the Monitoring Officer covering any ethical issues raised during the course of the municipal year.

Together with the ongoing monitoring of the proposed ethical indicators, these should provide the Committee with sufficient information on which to take the "ethical temperature" of the organisation, and identify any areas of weakness where further work or intervention may be required.

RECOMMENDATION:

That the Standards Committee agree the proposed work programme / indicators as appropriate measures of the ethical health of the authority.

**LOCAL GOVERNMENT ACT 2000
BACKGROUND PAPERS**

| No. | Brief Description of Background Papers | Name/Ext. of holder of file/copy | Department/Location |
|-----|--|----------------------------------|---------------------------------|
| 1. | Audit Commission ethical health-check (LBHF) | John Cheong x 2062 | Room 203, Hammersmith Town Hall |

APPENDIX A

INDICATORS MEASURING ETHICAL HEALTH OF THE AUTHORITY

| <u>Indicator</u> | <u>Jan-March 05</u> | <u>April-June 05</u> | <u>July-Sept 05</u> | <u>Oct-Dec 05</u> |
|---|----------------------------|-----------------------------|----------------------------|--------------------------|
| No.of complaints referred to SBfE (as notified to the Monitoring Officer pending investigation / determination by ESO / Standards Committee) | 1 | 0 | 0 | |
| No.of complaints being investigated by SBfE | 1 | 0 | 0 | |
| No.of complaints being investigated locally by MO | 0 | 0 | 0 | |
| No. of findings where breach of the Code of Conduct found | 0 | 0 | 0 | |
| No. of findings where no breach of the Code of Conduct found | 0 | 0 | 0 | |
| No.of members recording changes in the Register of Members ' Interests (28 days) | 3 | 1 | 0 | |
| No.of members recording receipt of gifts / hospitality (28 days) | 0 | 5 | 0 | |
| No. of dispensations sought | 0 | 0 | 0 | |
| No.of whistle-blowing cases notified to MO | 0 | 1 | 0 | |
| No. of internal or external audit reports relating to probity / fraud issues | 21 | 6 | 7 | |
| No. of complaints to the Audit Commission in relation to the authority's accounts | 0 | 0 | 0 | |
| | | | | |