

ANNEX B

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE ODPM SELECT COMMITTEE'S REPORT ON THE ROLE AND EFFECTIVENESS OF THE STANDARDS BOARD FOR ENGLAND

Introduction

The Government welcomes the report of the Select Committee and the contribution the Committee has made to the consideration of the role of the Standards Board for England and its place in the development of the conduct regime for local government.

The Committee will be aware that its report coincides with the recommendations of the recent report of the Committee on Standards in Public Life covering similar issues, and the Standard's Board's recommendations to the Office flowing from its recent review of the code of conduct for members. The detailed response to the Select Committee, below, reflects the Government's conclusions following consideration of the recommendations arising from all three of these reports.

The Committee proposed:

- 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.**

The Government's response:

In communicating with the public, both the Government and the Standards Board will continue to distinguish between the role played, and the views expressed, by each of them. We accept that the remit of the Government in providing the framework of rules within which the conduct regime operates, is separate from that of the Board, which is an independent NDPB with a distinct statutory role provided by Parliament under the Local Government Act 2000.

The Committee proposed:

- 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.**

The Government's response:

The Government welcomes the Committee's support for the Board's working arrangements with the Audit Commission. One outcome of the Board's collaboration with the Commission is the ethical governance toolkit, which the

Board has developed in partnership between the Commission and IDEa. The Board has also worked with the Commission in developing a Key Line of Enquiry for the Comprehensive Performance Assessment process, in order to test the robustness of standards arrangements at local level as part of wider consideration of effective corporate governance. The Board will develop its relationship further with the Commission on these and other issues, and will seek to consolidate its links with the Commission, as appropriate.

Investigation and Enforcement

The Committee proposed:

- 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.**

The Government's response:

The Government appreciates the Committee's support for the role the Board has undertaken in making initial assessments of all allegations of misconduct, and the importance of applying a consistent set of criteria to allegations. However, we accept the view taken by the Committee on Standards in Public Life that there would be benefits in promoting more locally-based decision making, by giving powers to local standards committees to make initial assessments of allegations. We consider that this move would encourage local ownership of standards and allow local knowledge and sensitivities to be more easily reflected in the handling of cases.

At the same time, as a guarantee of the application of consistent standards, which the Committee has rightly identified as necessary to guarantee the independence and robustness of the system, we consider there is a need to retain a strong central role for the Standards Board in providing a national overview, guidance and risk-based assessment for authorities, and to bolster the capacity and capability of standards committees so they will be able to undertake their new role.

The Committee proposed:

- 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.**

The Government's response:

The Government accepts that there was a delay between the coming into force of the Local Government Act 2000 and the introduction of regulations in 2003 and 2004 to provide for the local investigation and determination of less

serious allegations. This delay was largely a result of the need to consult on the detail of the regulations, and to consider difficult issues raised by the consultation. We accept that this caused a delay in the completion of the full ethical regime, and a consequent high workload for the Board, since, until the regulations were put in place, it was not able to refer cases for action at local level. The statutory framework for the ethical regime is, however, now fully in place, and the necessary powers and resources are available to allow the regime to operate effectively.

The Committee proposed:

- 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.**

The Government's response:

The Government appreciates and fully endorses the Committee's recognition of the impressive improvements in case handling which the Board has achieved over the last year and a half, and which are recognised in the progress made towards achieving its performance indicators recorded in its annual report for 2004/05.

The Committee proposed:

- 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.**

The Government's response:

We accept the need to monitor the impact of the provisions introduced in November 2004 for the local investigation and determination of less serious allegations at the discretion of the Board's ethical standards officers. The Board is monitoring this impact closely.

We accept the Committee's concern that undue delay in the completion of cases is not acceptable, and that justice delayed is justice denied. We and the Board are working, and will continue to work, closely together to monitor the progress of more locally-based decision making and will consider the implementation of further measures to improve efficiency, as appropriate, to ensure that decision making is undertaken in a timely but thorough way.

The Committee proposed:

- 7. We welcome the June 2003 regulations enabling some cases to be referred to local standards committees for determination.**

The Government's response:

The Government welcomes the Committee's support for the introduction of these regulations.

The Committee proposed:

- 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.**

The Government's response:

The Government does not accept this recommendation. The Board's current approach is to concentrate its resources on making speedy initial decisions on whether or not to refer cases for investigation. The Board currently rejects some 75% of allegations received and aims to make decisions and inform the parties concerned, including the member accused, within 10 days of receipt of the complaint. We are discussing with the Standards Board the practicalities of ensuring this information is brought to the attention of those concerned as soon as practicable.

The Committee proposed:

- 9. We do not support the proposal that the names of the complainants should be made public.**

The Government's response:

The Government accepts the Committee's recommendation, and considers that naming complainants publicly on a website could act as a disincentive to people with legitimate complaints from coming forward with their allegations.

The Committee proposed:

- 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.**

The Government's response:

The Government appreciates the Committee's concern about the potential effect of publicity about cases arising from the naming of members subject to allegations on the Board's website, specially in the case of members who are found not to have breached the code. However, many members who have been found not to have breached the code may equally wish this information to be made public. The Board has reviewed its policy on the publication of information on cases on its website in the light of the Committee's concerns,

and has amended its practice on the publication of case details. Its current policy is for summary information on cases where members have been found not to have breached the code of conduct to be removed from the website after six months (rather than after two years for other cases). The Board believes this strikes a balance between exonerating the member in public and ensuring that his name does not remain in the public eye for too long.

The Committee proposed:

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.

The Government's response:

The Government accepts that parish councillors should continue to be subject to the conduct regime for local government, reflecting the importance of the role of parish councils in the local government world.

The Committee proposed:

12. We strongly condemn the activities of those who knowingly make vexatious, malicious or frivolous complaints.

The Government's response:

The Government welcomes the Committee's condemnation of those who make vexatious or trivial complaints. The Board will continue to respond publicly and robustly in the case of such complaints, so as to give the clear message that vexatious and trivial complaints will not be investigated and will be rejected straightaway, and so that any inclination to make unfounded complaints will be discouraged. However, other people and bodies, such as members, local authorities and political parties, have vital roles in reducing the incidence of vexatious complaints. Local authorities, in taking ownership of conduct issues, need to understand that the making of vexatious complaints can have a corrosive effect on the way councils are perceived by the public, so it does not benefit anyone in the long term.

The Committee proposed:

13. 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 Board and its Ethical Standards Officers could not be justified and we are conscious that taking such an approach may act as a disincentive to those with legitimate complaints to raise.

The Government's response:

The Government agrees with the Committee's view that the imposition of penalties on people making malicious complaints would not be beneficial to

the overall regime, given the disincentive effect it would be likely to have on those with legitimate complaints from coming forward with their allegations.

Promotion, Guidance and Training

The Committee proposed:

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.

The Government's response:

The Government appreciates the Committee's recognition of the increasing importance of the provision of guidance and training materials by the Board. The Board will deploy increasing resources into the provision of guidance and training, so as to meet the growing demand for support. The importance of this will be underlined as a result of our intention to give standards committees powers to make initial assessments of allegations, which will mean that local authorities will need to be provided with support and guidance for their new role in advance of the new provisions coming into effect.

The Committee proposed:

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.

The Government's response:

The Government appreciates the stress the Committee places on the importance of the provision of training on the code of conduct as an intrinsic part of local government culture. It is the responsibility of local authorities to ensure that officers who are investigating cases and members who are making determinations on them understand what is expected of them. The Board will increase the effort it is devoting to improving the presence of training provision as a central part of the local government world. As part of its wider remit, the Board will work to ensure that it is able to assess the effectiveness of training in improving local cultures.

The Committee proposed:

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.

The Government's response:

The Government appreciates the importance the Committee places on the role of ethical issues within the Comprehensive Performance Assessment process. The Board will consider conduct issues arising from the management of the CPA process with the Audit Commission, including any possible assessment of the take-up of training, as appropriate. The Board will seek to measure the impact which training is having, alongside CPA and the ethical governance toolkit, in embedding conduct issues at the centre of the local government world.

The Committee proposed:

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 the Board's undertaking to consider delivering training directly at a local level and would urge it to do so quickly.

The Government's response:

We appreciate the Committee's concern about the need to support parish councils in the management of their role regarding the code of conduct. Although the Board is not in a position to deliver training themselves at local level, given the sheer number of parishes and the Board's limited resources, it is seeking ways of building capacity to promote high ethical standards in parish councils, and to assist the local delivery of training and support for parishes, particularly through supporting the work of county associations and attending regional training events for parishes.

The Code of Conduct

The Committee proposed:

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.

The Government's response:

The Government accepts that there would be benefits in incorporating the ten general principles of public life into the code of conduct, or as an annex or preamble to it, since these principles provide extra context for understanding the code. Following its review of the code of conduct, the Standards Board has proposed the inclusion of the principles as a preamble to the code. We intend to make amendments to allow for the principles to be published alongside the code.

The Committee proposed:

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 wrongdoing by others is at the heart of ensuring high standards in public life”.

The Government’s response:

The Government appreciates the Committee’s view that the code should support the reporting of wrong-doing by members. However, we also consider there is a need, as the Committee has also accepted, to reduce the incidences of vexatious or trivial complaints. Following its review of the code, the Standards Board has proposed that the requirement in the code to report to the Board any breach of the code by others should be deleted. They take this view because of the encouragement some members feel this provision gives to the reporting of trivial or vexatious complaints. We intend to accept this proposal.

However, in order to support the encouragement of a culture where members feel able to report cases where they have serious and genuine allegations to make, we also agree with, and will implement, the Board’s proposal for a specific provision making it a breach of the code to seek to intimidate a complainant or a witness. We believe that this will provide appropriate protection to encourage the reporting of serious allegations of misconduct.

The Committee proposed:

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.

The Government’s response:

The Government appreciates the Committee’s concern that where allegations are put to the Board they are well-founded, and not based on rumour. As indicated in our response to the Committee’s 19th recommendation, we have concluded that the requirement for members to report to the Board any breach of the code by other members should be deleted, in response to the concern by some that this provision gives encouragement to the reporting of trivial or vexatious complaints.

Support for members who do wish to make well-founded complaints will be provided by making it a breach of the code to seek to intimidate a complainant or a witness.

The Committee proposed:

- 21. We do not support the proposal that knowingly raising false allegations should be a specific breach of the Code of Conduct.**

The Government's response:

The Government agrees with the Committee's view that a specific provision should not be added to the code to provide that raising false allegations should be a breach of the code, given the effect such a measure would be likely to have in discouraging members from bringing forward substantive allegations.

The Committee proposed:

- 22. We recommend that Clause 7 be amended to reduce its scope to include only complaints arising from members' activities in public life.**

The Government's response:

The Government believes the councillors should set an example of leadership to their communities, and that they should be expected to act lawfully even when they are not acting in their role as members. We do not agree therefore that the code should be amended to refer only to complaints arising from members' activities in public life. Following its review of the code, the Standards Board has, however, recommended that the current rule should be amended to provide that only certain behaviour outside official duties should continue to be regulated, but that this should be restricted only to matters that would be regarded as lawful. We accept this proposal, since it would balance the need for members to continue to set an example to their communities, and the need to exclude from proscription actions outside of official duties of which certain people might merely disapprove.