



# **The Government's Response to the Tenth Report of the Committee on Standards in Public Life**

PRESENTED TO PARLIAMENT BY THE PRIME MINISTER  
BY COMMAND OF HER MAJESTY, DECEMBER 2005





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Cm 6723

£6.50

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# **RESPONSE TO THE RECOMMENDATIONS**

## **CHAPTER TWO: PUBLIC APPOINTMENTS**

**R1. Departments should give serious consideration to giving their central appointments units operational responsibility for public appointments, particularly in cases where sponsor teams manage only one or two competitions a year.**

The Government accepts this recommendation. It is already the practice in a number of departments for central units to work closely with sponsor teams, advising on policy matters, overseeing the appointments process, and in some cases, undertaking the day-to-day administration of competitions. Departments which currently do not operate in this way will be encouraged to review their arrangements in the light of this recommendation to ensure that they have the most effective system in place which meets their needs.

**R2. Annual Public Appointments Plans should be adopted as the key strategic document for departments to set out their policy and practice relating to the public appointments of chairs and board members of the public bodies they sponsor. These plans should be published documents, drawn up by the permanent secretary (in consultation, where appropriate, with the linked Public Appointments Commissioner) and reflecting the views of the Secretary of State.**

The Government accepts the proposal that more systematic information should be published by departments on their overall approach to public appointments. As the Committee has already noted, information about public bodies and appointments to them is included in departmental annual reports. However, at present, the type of information provided varies across departments. The Government therefore believes that this information could be enhanced to provide more detail and clarity about the overall policy and approach taken by individual departments to public appointments.

The Cabinet Office will work with departments to develop a model for providing information on their approach to public appointments for inclusion in future departmental reports or other suitable publications. Departments will also include links to the published information in the public appointments sections of their departmental websites.

**R3. More systematic sharing of good practice in the making of appointments across public administration is urgently required. The Cabinet Office should convene an annual seminar of UK public appointments regulators and appointing authorities to exchange and debate good practice.**

The Government accepts the need for systematic sharing of good practice. The Cabinet Office already promotes good practice in public appointments through regular meetings with departments and in its guidance *Making and Managing Public Appointments. Guidance for Departments*. It will continue to discuss key developments and share good practice with public appointments regulators, departments and other stakeholders.

**R4. In England, the Commissioner’s Code of Practice paragraph 3.24 should be re-drawn, on the basis of the Civil Service Commissioners’ Recruitment Code, at paragraphs 2.52, 2.53 and 2.54. This would permit ministerial involvement at short-listing stage in ‘starred’ public appointments where they have a particular interest in appointments to strategic posts within the limitations of the Seven Principles of Public Life, particularly Accountability, Openness and Objectivity.**

- R5. (a) The process for ‘starred’ appointments, i.e. senior competitions likely to attract the specific interest and involvement of ministers, should be set out in the Code of Practice as a special starred category.**
- (b) Starred appointments should be identified in annual, published, Public Appointments Plans which set out a department’s public appointments record, policy and implementation plans.**
- (c) For other appointments which are not starred, Ministers may wish and should be able to sign off the planning arrangements for the competition. They should not be consulted at short-list stage and should not be involved again until the post-interview final selection of the candidate to be appointed.**

**R6. Paragraphs 2.55, 2.56 and 2.57 of the Civil Service Commissioners’ Recruitment Code should be incorporated into the Public Appointments Commissioner’s Code of Practice for use in starred appointments.**

The Government welcomes the Committee’s acknowledgment that the principle of participation by Ministers in the public appointments process is not incompatible with the independence and integrity of the system. It also welcomes the fact that there is common ground here among a variety of important stakeholders, including the Commissioner for Public Appointments, Permanent Secretaries, Ministers and other informed players and observers. Ministers are a very important stakeholder in the public appointments process. Under the legislation which establishes public bodies, Ministers are responsible for making appointments. They are accountable for the

performance of individual public appointees and the bodies to which they are appointed. For these reasons, the Government therefore believes it is only right that Ministers should have a proper and transparent involvement in the process. The Government will work with the Commissioner to ensure that there is an agreed approach which provides clarity and openness about the degree of ministerial involvement.

**R7. The Commissioner should consult urgently with appointing authorities to revise and develop paragraph 3.37 of the Code of Practice dealing with non-compliance so that there is a clear and unambiguous procedure for the resolution of disputes between the Commissioner and an appointing authority.**

**R8. The Commissioner for Public Appointments should exercise fully her functions under the Order in Council to maintain the principle of selection on merit in relation to public appointments. The Commissioner should not hesitate to publish a contemporaneous report or issue a statement (paragraph 3.37 of the Code of Practice notes that “the Commissioner may decide to comment publicly”) setting out in detail where she has a reasonable belief that an appointing authority has breached the Code of Practice. She should only do this after she has held a face-to-face meeting with the Minister concerned in an attempt to seek to resolve any dispute and it is clear the Minister will not accept her proposal.**

The Government accepts these recommendations. Disputes between the Commissioner and departments are rare and, on the few occasions when they have occurred, the current arrangements have generally been effective. The Commissioner has commented publicly on cases of non-compliance with her *Code of Practice* and included details in her annual report.

However, the Government recognises there is scope for a more clearly defined procedure to be drawn up and believes it would be appropriate for the Commissioner to do this in consultation with the Cabinet Office and departments.

**R9. The 2002 Public Appointments Order in Council should be amended to include the reserve powers set out in sections (7) and (8) of the Public Appointments and Public Bodies etc (Scotland) Act 2003. These would enable the Commissioner, where an appointment has not been made, to direct Ministers to delay making an appointment until the Parliament has considered the case.**

In its earlier response to the Public Administration Select Committee Report *Government by Appointment: Opening up the Patronage State*, the Government recognised that the new Commissioner for Public Appointments in Scotland would have reserve powers and agreed to monitor how these provisions operated. The Scottish Commissioner was appointed in June 2004 and has not yet exercised these powers.

The Government will continue to monitor the position in Scotland, but is not persuaded of the need to provide the Commissioner with reserve powers at this time. It believes the current arrangements are effective. If the Commissioner is unhappy with a particular appointments process, the Government would expect there to be a dialogue with the Minister concerned. If, having made representations, the Commissioner remains unhappy with the process then she can publicise the issue in her Annual Report or make a special report. The Government believes that this is an effective sanction. It also believes that this mechanism will be further enhanced by the proposals set out in recommendations 7 and 8 which the Government accepts.

**R10. We recommend that The Responsibilities of an Accounting Officer and the Ministerial Code be amended to make reference to the explicit responsibility of permanent secretaries, as accounting officers for the propriety of public appointments made by their departments.**

As the Cabinet Secretary made clear in his evidence to the Committee, the role of the Permanent Secretary is not just one of the guardian of the financial propriety as accounting officer but of the reputation of the department for integrity. If there is a problem with an appointment, the relevant Permanent Secretary should be involved. The Government agrees that there would be benefit in spelling out this responsibility in a more explicit way but feels that the more appropriate vehicle to do this is in the letter from the Cabinet Secretary to Permanent Secretaries on their appointment rather than the *Responsibilities of an Accounting Officer* and the relevant section in the *Ministerial Code* as these deal with the propriety and regularity of the public finances rather than appointments processes.

- R11. (a) The Government should actively review the experience of setting up and running central lists in Northern Ireland, Scotland and Wales, the NHS Appointments Commission and the Commissioner's own Central list of 22 independent assessors with a view to producing proposals in conjunction with the Commissioner within one year for a proportionate, cost-effective, centrally-run system.**
- (b) In the meantime, only independent assessors recruited to the Commissioner's Central List should be used for**

starred appointment competitions involving Ministers. Departments should continue recruiting and managing their own lists of independent assessors, on condition that they use an accreditation system run by the Office of the Commissioner for Public Appointments (OCPA) which accredits assessors to be employed.

The Government considers that the current arrangements provide a flexible and proportionate solution to the different needs of individual departments, enabling them to recruit their own independent assessors or use those recruited by the Commissioner. The Government is therefore not convinced that a centrally run list of independent assessors would be more effective.

However, the Government does recognise the important role of independent assessors in the public appointments process. It believes they make a valuable contribution, not only in ensuring that the process is carried out in accordance with the Commissioner's *Code of Practice*, but also in terms of the quality of the appointment made.

The Government also supports the quality assurance measures put in place by the Commissioner and set out in her *Code of Practice*. These cover the selection of independent assessors to ensure that those appointed have the right skills and level of experience and the induction, information and support available to them. It is important for independent assessors to be properly trained in the requirements of the Commissioner's Code of Practice to enable them to fulfil this important role. The Government believes that an accreditation system should be designed to ensure that all independent assessors have up-to-date training, and sees merit in building on the measures already put in place by the Commissioner with a view to the Commissioner, in consultation with the Cabinet Office and departments, giving further consideration to developing a system of accreditation for independent assessors as proposed in recommendation 12.

**R12. We recommend that OCPA and the NHS Appointments Commission should work together to produce integrated, competency-based, induction and development programmes for independent assessors, together with a model, light appraisal system. This should be the basis of an accreditation or 'kite-mark' without which an independent assessor would be unable to act.**

The Government supports this recommendation. The NHS Appointments Commission has already undertaken a great deal of work on competency-based recruitment, induction and appraisal. The Government believes there is much to be gained from the Commissioner working with the NHS Appointments Commission and departments to develop induction programmes for independent assessors as well as an appraisal system. As mentioned in the response to recommendation 11, the Government also feels that

accreditation of independent assessors is an important issue that should be given further consideration by the Commissioner in consultation with the Cabinet Office and departments.

**R13. The political activity questionnaire was designed and intended for monitoring purposes only. We recommend that the Commissioner's Code of Practice should set out clearly that the questionnaire should not be shown to anyone involved in the selection process.**

The Government agrees with this recommendation and has consulted the Commissioner who intends to revise her *Code of Practice* accordingly.

Cabinet Office guidance *Making and Managing Public Appointments. Guidance for Departments* already makes clear that the questionnaire is for monitoring purposes and should play no part in the selection process. This is with the exception of a very limited number of cases where there is either a statutory requirement that political balance is a consideration or where political parties are required to be represented.

- R14. (a) The 2002 Public Appointments Order in Council should be amended to allow the creation of a Board of Public Appointments Commissioners. The Board should be chaired by a First Public Appointments Commissioner.**
- (b) Public Appointments Commissioners should each be linked to a small number of Departments, providing assistance to the Department in constructing and publishing annual departmental Public Appointments Plans. These plans should be the executive responsibility of the department and signed off by the Board of the Public Appointments Commission.**
- (c) Public Appointment Commissioners should be available to chair selection panels for 'starred' appointments.**

The Government is attracted to this recommendation and acknowledges the benefits of a Board of Public Appointments Commissioners and for individual Commissioners to each be linked to a small number of departments. The Government also acknowledges the benefit of the Commissioners being able to chair or be members of selection panels. However, the Government is also conscious of the Inquiry currently underway by the Public Administration Select Committee into the role and independence of the ethical regulation of Government. The Government would therefore welcome the views of the Public Administration Select Committee before putting substantive arrangements in place.

## CHAPTER THREE: **THE ETHICAL STANDARDS FRAMEWORK FOR LOCAL GOVERNMENT**

### Northern Ireland

R15. Following the review of public administration, and upon the restoration of the Assembly in Northern Ireland, a Statutory Code of Conduct for Councillors should be introduced with a proportionate and locally-based framework for enforcement, drawing upon experience of other parts of the UK.

In response to earlier requests from the Northern Ireland local government sector for a statutory code, and taking account of the above recommendation, the Department of the Environment has now established a working group involving local government representatives to review the existing voluntary code which was introduced in 2003 and to explore options including whether the code should be made mandatory.

### England

The Government welcomes the recommendations in this Chapter and the contribution which the Committee has made to the development of thinking on the future of the conduct regime for local government members. The Committee will be aware of the recent recommendations of the ODPM Select Committee on the role and effectiveness of the Standards Board for England, as well as the recommendations flowing from the Board's recent review of the code of conduct for members. The detailed response below reflects the Government's conclusions following consideration of the recommendations arising from all of these reports.

We agree with the general view the Committee took that there would be benefits in moving towards the promotion of more locally-based decision making in conduct issues, which would encourage local ownership of standards within local authorities. We consider this should take place within a national framework and with a strong continuing role for the Standards Board at the heart of the regime in providing guidance and support and promoting best practice on the handling of allegations by local authorities. We consider this is necessary to ensure public confidence in the fairness and independence of the system. We share the Committee's vision of a Board with a strategic role in championing high standards of conduct and ensuring the effectiveness of the regime.

We also agree that confidence would be enhanced by strengthening the capacity and capability of standards committees to undertake a more active role by increasing the contribution made by independent members serving on committees and a simplification and clarification

of the code of conduct for members, so that it is easier to understand and operate at local level. We will work closely with the Standards Board on the detailed proposals for amendments to the code of conduct, and implement changes as soon as practicable. Where these require primary legislation, our intention is to seek this at the next convenient opportunity that Parliamentary time allows.

The Government's detailed responses on each of the Committee's proposals are set out below:

**R16. Parish councils should remain within the ethical framework for England: the same principles of conduct should apply to all locally-elected representatives, irrespective of the size of authority (or the powers of that authority) to which they were elected.**

We accept 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.

**R17. The Government should announce its intention to amend Part III of the Local Government Act 2000 in the Parliamentary session 2005/06 to enable the sifting of complaints to be undertaken by local Standards Committees.**

We accept in principle that the Local Government Act 2000 should be amended to provide for more locally based decision-making. We will aim to make the necessary amendments as soon as Parliamentary time allows. In advance of the introduction of the revised regime, the Government wants the Board to work closely with local authorities so that standards committees and monitoring officers are properly supported, and have the capacity and capability to do their jobs.

**R18. The amendment to Part III of the Local Government Act 2000 should: Place a duty on the Standards Board for England to delegate the responsibility for initial sifting of complaints to individual local Standards Committees. The delegation should be subject to the operation within a national framework prescribed by the Standards Board (and based upon criteria used by the Standards Board in sifting and referrals) by which local Standards Committees can decide:**

- (i) whether to investigate a complaint or not (and if not whether mediation or conciliation between parties or general action in relation to awareness and understanding of the Code is appropriate);

- (ii) which complaints are of such potential seriousness they should be referred for national investigation;
- (iii) whether, following a local investigation, a complaint should be referred to the Adjudication Panel; or
- (iv) to hear and determine the case, with an appropriate penalty where necessary; or
- (v) accept that no breach has occurred; or
- (vi) to instruct the monitoring officer and/or Standards Committee chair to instigate mediation or conciliation between parties or general action in relation to awareness and understanding of the Code.

Introduce a requirement for Standards Committees to report annually to the standards Board and full Council on the operation of the ethical framework.

Introduce a requirement for each Standards Committee and the Standards Board to determine and publish targets for the completion of each stage in the complaints-handling process they are responsible for and to report on these as part of their respective annual reports; and

Provide a power for the Standards Board to audit the operation of the framework by a local Standards Committee and, if necessary following the audit, to remove the delegation until satisfied that necessary remedial action has been taken.

We accept the principle that the initial assessment of allegations against local authority members should be undertaken by local authorities. We also accept that the exercise of this provision should be within a framework operated by the Standards Board, and that the Board should provide advice and guidance to committees on the operation of the assessment process. There should also be provision for the Standards Board to investigate in certain cases, including allegations of a particularly serious nature or cases which might have a national significance or set an important precedent.

We accept that the powers provided to standards committees should be broadly in line with those suggested by the Committee. We will give further consideration to the detail of the provisions, for example, on the circumstances when a case should be referred by a committee back to the Standards Board for investigation.

We accept in principle the need to have appropriate reporting arrangements in place, so that the performance of standards committees can be effectively monitored and for the Board to be able to take appropriate action, for example, in terms of providing advice and support, or otherwise intervening, in cases where improvements in performance might be made.

**R19. The Government should introduce, as a matter of urgency, secondary legislation to require a majority of independent members and an independent chair for Standards Committees and subcommittees in England. This is a critical element of our proposals to improve the existing system and to lay the ground for the subsequent introduction of the locally-based system.**

We accept that more locally-based decision making needs to be supported by an increase in the capacity and capability of standards committees to deal with the increased numbers of cases and their new filtering role, so as to ensure the fairness and independence of decision-making, on which public confidence in the system depends. We accept that this will be assisted by requiring that all chairmen of standards committees should be independent and committees should include independent members who reflect a balance of experience, but not that a majority of members should be independent since we consider it important to ensure the local ownership of standards by all members.

**R20. Prior to the introduction of the locally-based system, all complaints assessed by the Standards Board as not requiring any investigation should also be sent to the local monitoring officer and Standards Committee so that they:**

- (i) are fully aware of complaints made within their jurisdiction;
- (ii) can become familiar with the criteria used to decide whether an investigation is justified or not; and
- (iii) judge whether the complaints indicate that some informal mediation between members or parties might be required or general awareness raising or training.

We accept that, in advance of the introduction of legislation to provide for more locally-based decision taking, it would be sensible for the Board to liaise closely with standards committees, including sharing experience of case handling, so that committees can develop their knowledge and skills in this area. It has always been the Board's practice to notify monitoring officers of complaints not requiring investigation, together with the reasons why that decision was made.

The Board will work to ensure that all monitoring officers share that information with their standards committees so they can consider any lessons which might be learnt.

**R21. That the Standards Board should take steps to communicate more robustly and publicly to complainants, members and the public more generally, those minor, trivial, vexatious and politically-inspired complaints which are inappropriate to be dealt with under the ethical framework (following the example of the Local Government Ombudsman for Wales).**

We accept that it is important for the Board to continue to respond publicly and robustly in the case of minor, trivial or vexatious complaints. It is important that the message is given to potential complainants that vexatious allegations will not be investigated and will be rejected straightaway, so as to discourage any inclination to make unfounded allegations. The Board is already active on this issue. At its suggestion, the provision in the code requiring members to report to the Board all allegations of breaches of the code by other members will be deleted, which should discourage some trivial complaints. In addition, the Board has identified a need to work with political parties further to reduce politically-inspired tit-for-tat complaints which can damage the public perception of local government.

**R22. The Committee welcomes the steps taken by the Standards Board to resolve delays and backlogs in investigations. These measures should be further bolstered by taking full advantage of the new s66 regulations to refer to a local level a steadily increasing proportion of complaints judged worthy of investigation. In light of our recommendations to enable initial complaints-handling to be done at the local level, the experience of operating the s66 regulations over the next two years should be used by the Standards Board to develop the framework within which local Standards Committees will decide whether to refer a complaint for investigation by the Standards Board.**

The Government appreciates the Committee's support for the steps the Board has taken to tackle backlogs and delays in case handling. We accept that the numbers of cases dealt with at local level should be increased. Following the issuing of regulations under section 66 of the Local Government Act 2000 last year, the Board has been referring increasing numbers of cases for local investigation and determination. It should be possible to use the Board's experience of operating the rules on the referral of cases locally to inform the development of procedures for standards committees to make decisions on how cases should be dealt with.

**R23. The Standards Board should review its Human Resource Management policies, including pay scales, to ensure that it puts a priority on secondments and transfers from local authorities to the referral and investigations units, thereby increasing and refreshing the level of local government experience.**

The Standards Board has actively sought secondments and permanent recruitment from the local government world. The Board's investigators have between them over 200 years of local government experience. Case managers in the Board's Referral Unit have a combined total of over 40 years of employment in local authorities. The Board will continue to ensure that its management policies put an appropriate emphasis on the recruitment and retention of staff with local government experience.

**R24. The general principles, currently contained in a separate order, should be incorporated into the Model Code. This will add clarity about the fundamental purpose of the Code and help provide a context for members behind some of the more detailed provisions in the Code. It will also make the Model Code more relevant to members of the public and assist in providing a route into the Code when considering making a complaint.**

The Government accepts that there would be benefits in incorporating the ten general principles of public life as a preamble or an annex to the code of conduct, where the principles would 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.

**R25. The phrase 'in any other circumstance' should be removed from the Model Code in England (paragraphs 4 and 5 of schedule 1) so as to add clarity to the distinction between private and official conduct.**

We believe that 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 so as only to refer to actions by members in their official capacity and not their private lives. Following its review of the code, the Standards Board has, however, recommended that the current rule should be amended to provide that certain behaviour outside official duties should continue to be regulated, but that this should be restricted only to matters that would be regarded as unlawful. 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 of which certain people might merely disapprove.

**R26. Failure to register an interest (financial or other) should normally be treated as a matter for local investigation and determination. This should be reflected in the operation of the new s66 regulations, and in the new locally-based system.**

We accept that in many such cases it would be appropriate for a failure to register an interest to be referred for local investigation and determination. However, we consider that each case should continue to be treated on its merits, and that a blanket approach for all cases would not be the right approach. For example, a case where a member wilfully and knowingly refuses to complete the register because he disagrees with the principle of registration would be likely to be viewed differently to a case where the member had overlooked or forgotten the need to fill in the register.

**R27. The following principles should apply where members are appointed, or nominated, to an outside body by their local authority (or have their membership approved by their local authority); are a member of another relevant authority; or are a member of another public body in which they hold a position of general control or management. They should be free to speak but not vote, subject to:**

- (i) the declaration of a personal interest;**
- (ii) the matter before the Council/Committee does not relate to an application by the outside body for any licence, consent or an approval or any objection to such matters or to any statutory order or regulation to be made by the local authority; and**
- (iii) any representations must be made in an open and transparent manner.**

Following its review of the code, the Standards Board has proposed something similar to this proposal. Members frequently hold appointments to other public bodies and the current code places an onerous responsibility on members to declare membership of other public bodies, and withdraw from meetings when issues relating to these bodies are raised. We accept the fact that in some circumstances a discussion can involve the public body with which the member is concerned without the member's judgement of the public interest being prejudiced. We recognise that it is necessary to balance the need to give public reassurance that decisions are being taken in the public interest, and enable members to represent the concerns of public bodies on which they serve and use the experience and knowledge they have gained from their membership of those bodies.

We intend to make amendments to the code which will adopt a solution involving the member making a declaration of personal interest at the time when he speaks on a relevant issue (rather than at the start of the meeting). In addition, even where the member has a prejudicial interest in the matter relating to the body he represents (eg where the matter has a direct impact on the body concerned, or where the member is involved in regulatory matters in a decision-making capacity such as in respect of planning and licensing), he should be allowed to remain in the meeting to speak on behalf of the body, or on behalf of a campaign that he supports, but should withdraw before the vote.

**R28. In planning decisions the ability of elected members to represent constituents' interests where they have personal and prejudicial interests has been unnecessarily diminished. This should be changed to give any elected member the right to speak (but not vote) for their constituents at a planning committee meeting or any other quasiregulatory meeting, provided:**

- (i) a declaration of personal interest is made, including the nature of the interest;
- (ii) the representations are made in an open and transparent manner; and
- (iii) the member making the representations (whether a member of the Committee or not) withdraws at the completion of their representations.

As in the case of the response to recommendation R27, following its review of the code, the Standards Board has proposed something similar to this proposal. We accept there would be benefits in a more proportionate approach which recognises more clearly the need for members to act as local advocates, as well as the need for public reassurance that decisions are being made in the public interest.

We intend to make amendments to the code which will adopt a solution including the narrowing of the definition of personal interests which members are required to declare, a requirement for the member to declare his or her interest at the point where he or she speaks on a relevant issue, and, when the member has a prejudicial interest in a matter, he or she should be able to speak at the meeting but withdraw before the vote.

**R29. The three principal regulators (Standards Board for England, Local Government Ombudsman for Wales, and Standards Commission for Scotland) should put in place formal arrangements for the sharing of experiences and best practice.**

**This should be extended to include the body with designated responsibility for enforcement of a new statutory framework in Northern Ireland.**

The Standards Board hosts regular meetings with the Local Government Ombudsman for Wales and the Standards Commission for Scotland for the sharing of experience and good practice. The Board will continue to maintain these contacts and will seek ways of working closer and consider the extension of these arrangements, as appropriate. ODPM, the Audit Commission, the Local Government Ombudsman and the Improvement and Development Agency (IDeA) also attend these Joint Working Group Meetings to ensure that conduct issues are seen in the wider context of corporate governance more generally.

**R30. Prior to the introduction of the locally-based system consideration should be given as part of the Code of Conduct to amend the duty to report a possible breach of the Code so that it becomes a 'duty to report a possible breach to the monitoring officer and Standards Committee chair' who would then be responsible for deciding whether a formal complaint to the Standards Board should be made.**

Following its review of the code, the Board has proposed that the requirement in the code for members to report to the Board any breach of the code by other members 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.

Following the introduction of a locally-based system, it will be a matter for standards committees to make decisions on whether cases should be referred to the Standards Board for action. However, prior to the introduction of that revised regime, and in advance of advice and guidance from the Board, it would be premature straightaway to give standards committee chairs a filtering role. Before local filtering is introduced, the Board will continue to copy information on all local allegations to local monitoring officers, so as to share experience on how such cases might be effectively dealt with, and will be working with authorities on the development of their knowledge of the issues and their capacity to deal with cases.

**R31. All local authorities should consider using the Audit Commission/Standards Board Ethical Governance Audit tool and facilitated workshop to self-assess their arrangements for ensuring ethical standards.**

We welcome the Committee's support for the ethical governance toolkit, which the Board has developed in partnership with the Audit Commission and IDeA. The Joint Working Group Meetings referred to in the response to R29 monitor the development and progress of the dissemination of the toolkit.

**R32. The Standards Board should develop model training and development materials that can be used to provide monitoring officers and Standards Committee members with the key competences required to sift, investigate and determine complaints under the ethical framework. All monitoring and Standards Committee members should have undertaken training using this material by January 2007.**

The Board will continue to develop training materials for monitoring officers and standards committee members. It recognises that a move towards the initial assessment of allegations by local authorities will mean a redirection of the Board's efforts towards the provision of advice and support to equip monitoring officers and standards committees for their new role in making initial assessments of all complaints, as well as investigating and determining most allegations. The Board will ensure that appropriate guidance and training materials are in place in advance of the introduction of the new arrangements for more locally-based decision making. Work will also be needed by the Board to build capacity and capability at local level, including having regard to recruitment practices, so the right skills and resources are available for monitoring officers and standards committees to be able to do their job.

**R33. The Standards Board should develop further the concept of regional forums to facilitate regional support networks for monitoring officers and Standards Committee members.**

The Standards Board has undertaken a considerable amount of work to foster forums and regional support networks for monitoring officers and standards committee members. It has hosted four annual national assemblies for standards committee members, and has supported the development of regional forums of independent standards committee members. It will continue to provide speakers for such forums where requested, and attend regional meetings of the Association of Council Secretaries and Solicitors. It has developed and is continuing to support networks of monitoring officers and standards committees around the country, for example, through the provision of training materials and the circulation of newsletters giving information on issues of mutual interest to members and officers. The Board will continue to support and maintain these networks, with the aim of sharing knowledge and good practice. We will consider ensuring these regional networks develop more formal structures, which might include regional 'primus inter pares' monitoring officers and chairs.

## CHAPTER FOUR: **EMBEDDING THE SEVEN PRINCIPLES OF PUBLIC LIFE INTO ORGANISATIONAL CULTURES**

**R34.** Boards of all public bodies should, in their procedures, provide for a right of access for individual board members to a senior official in their sponsor department, and through them to the permanent secretary and Minister if necessary, to raise concerns about systematic and sustained failures in either the board's processes or strategic decisions. Before exercising this right of access, a board member should raise their concerns with the chair or the board as a whole.

The Government accepts this recommendation. Cabinet Office guidance provides advice on corporate responsibility which must feature in the Code of Practice of every public body. The current guidance makes clear that any board member has the right of access to Ministers on any matter which he or she believes raises important issues relating to his or her duties as a board member. More detailed guidance on the proposed process will be drawn up in the light of this recommendation.

**R.35.** The boards of all public bodies should commit themselves to the adoption and use of the Audit Commission's self-assessment tool, *Changing Organisational Culture Audit*, which is especially designed to help embed a good conduct culture.

The Government welcomes this tool as a contribution to improving standards of good governance in a wide variety of public service organisations, but would not, however, wish to make its use mandatory. The Government also provides guidance on good governance to central government departments and non-departmental public bodies, and will consider the best way of taking the Audit Commission's self-assessment tool into account when reviewing these guidance needs. But it believes public bodies will themselves be best placed to consider exactly what approach fits their particular needs.

**R36.** The Commissioner's Code of Practice on Public Appointments should be reviewed and revised as a matter of urgency to reflect and incorporate the principal recommendations of PricewaterhouseCooper's audit report, *Conflicts of Interest*, produced for the Office of the Commissioner for Public Appointments in June 2004 and the general recommendations in the report by AHL Ltd, *Commission for Architecture and the Built Environment, Audit of Conflicts of Interest*, HC 678, 17 June 2004.

The Government has consulted the Commissioner about this recommendation and agrees with her intention to include further information on dealing with conflicts of interest in her Code of Practice.

The Cabinet Office provides guidance on handling conflicts of interest, including a relevant question on the model application form and letter of appointment, in its *Making and Managing Public Appointments. Guidance for Departments*. The issue is also covered in *Guidance on Codes of Practice for Board Members of Public Appointments and in Non-Departmental Public Bodies: A Guide for Departments*, also produced by the Cabinet Office.

**R37. All regulators should review their procedures for handling whistleblowing by individuals in bodies under their jurisdiction, drawing upon best practice (for example the Audit Commission and Financial Services Authority).**

The Better Regulation Executive, set up following recommendations of the Hampton Report “Reducing Administrative Burdens” and the Better Regulation Task Force Report “Less is More”, is considering how this recommendation might be addressed as they consider the recommendations of both reports concerning regulators.

**R38. Leaders of public bodies should reiterate their commitment to the effective implementation of the Public Interest Disclosure Act 1998 and ensure its principles and provisions are widely known and applicable in their own organisation. They should commit their organisations to following the four key elements of good practice i.e.**

- (i) Ensuring that staff are aware of and trust the whistleblowing avenues;
- (ii) Provision of realistic advice about what the whistleblowing process means for openness, confidentiality and anonymity;
- (iii) Continual review of how the procedures work in practice; and
- (iv) Regular communication to staff about the avenues open to them.

The Government agrees on the importance of ensuring that staff are aware of and trust the whistleblowing process, and on the need for the boards of public bodies to demonstrate leadership on this issue. It also agrees on the need for regular communication to staff about the avenues open to them to raise issues of concern. There is some guidance on raising issues of concern for staff of public bodies but the Government accepts that it would benefit from some updating. It will therefore revise and reissue the Cabinet Office guidance for NDPB staff and board members making clear the requirement for effective and clear procedures for raising issues of concern, as well as the requirements of the Public Interest Disclosure Act 1998.







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