

To be sent by email: inquiry@standards.x.gsi.gov.uk

Peter Hawthorne
The Committee on Standards in Public Life
35 Great Smith Street
London
SW1 3BQ

Dear Peter,

Re: The Standard Board for England's response to issues and questions paper - *Local leadership and Public Trust: Openness and Accountability in London and Local Government*

Thank you for providing the Standards Board for England with the opportunity to respond to the above issues and questions paper.

As the Committee will know, the Standards Board recently became a strategic regulator, working in the field of standards, conduct, and values for those participating in local public life in England. We oversee the effectiveness of the local standards framework. Our role is to ensure that the framework as a whole is operating effectively both at a national level and in individual authorities, and to advise government on any necessary changes to the system. We also investigate cases of alleged breaches of the Code of Conduct not suitable for resolution locally. Prior to May 2008 we were responsible for handling all cases at an initial stage and as such have built up expertise on the types of standards issues faced by local government.

In the body of our response we make specific suggestions for improving current arrangements for openness and accountability. Our key message in this response is that while we believe the legislative framework for dealing with standards issues is broadly effective, both local government and regulators need to make greater efforts to ensure that the system is citizen-focused and that the public are aware of how members can be held to account. We need to ensure that the public have confidence that accountability mechanisms will uncover inappropriate behaviour and that it will be dealt with appropriately.

The Standards Board's experience is that, generally speaking, there are few extreme instances of poor behaviour at a local level. However, where those few incidences do occur they often have a disproportionate impact on public perception of local democracy as a whole, leading to distrust of, and disengagement from, local democracy. Regulators and local government need to do more to provide evidence that would enable the public to take a more informed view of the trustworthiness of local government. In this sense, it is not simply about greater transparency but also better communication of the information that we do have.

We recognise that we have a key role to play here. As part of our developing role as a strategic regulator, we will be increasing our attention to the needs of

the wider public, both through our own work and through encouraging local standards committees to engage more with the public.

We have, as requested by your Committee, refrained from attempting to answer every question in the paper. We have divided our response into ten sections, which cover the themes of particular interest to the Standards Board. For ease of analysis and consolidation of responses, we have followed the general structure of the consultation paper and have put the paragraph reference from the Committee's paper at the beginning of each section being considered.

The sections are listed below:

- **Section 1: The Seven Principles of Public Life**
- **Section 2: Levels of public confidence and trust and governance issues**
- **Section 3: The Mayoral model**
- **Section 4: Role of standards committees in ensuring openness and accountability**
- **Section 5: What the Standards Board sees as key elements of an accountability framework in local government**
- **Section 6: Member-Officer relations**
- **Section 7: The role of a regulatory body**
- **Section 8: Ensuring accountability in partnerships**
- **Section 9: The London Mayor and the Assembly**
- **Section 10: The Greater London Authority (GLA) and the four functional bodies**

We have also taken the opportunity to expand on points in our submission which have not been directly raised by your Committee, but may help inform some of the areas of interest to the Committee.

We would be happy to meet to discuss any of the issues and points we have made in our response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R Chilton', with a stylized flourish at the end.

Dr Robert Chilton
Chair

Section 1: The Seven Principles of Public Life

The Committee is interested in how well the Seven Principles of Public Life are promoted by the current structures of local and London governance (Para 1.17)

1. Research¹ has found that every local authority in England is operating the core, statutory elements of an ethical framework, which include adoption of a Code of Conduct. Some operate a narrow rules-based framework for addressing conduct issues, while others have gone further in exploring ways of using the framework pro-actively to influence the wider ethical culture.

In April 2009, as part of our role as a strategic regulator, we will be collecting information on standards arrangements from all local authorities via an annual return. This data will include information on the role of the standards committee and what the standards committee does to promote standards, training, leadership and member/officer relations. The analysis of this information will enable us to come to a more considered view about the current state of arrangements in local authorities and how well they promote the Seven Principles of Public Life. We would be happy to share these findings with the Committee.

Section 2: Levels of public confidence and trust

The Committee has asked for views and evidence about levels of public confidence and trust, in local and London government, and is particularly interested in the impact, if any, of the mode of governance and decision-making on public perceptions (Para 1.20)

2. The Councillors Commission report, *Representing the future* (2007) concluded that “there was a prevailing atmosphere of public mistrust with formal politics, political parties, and institutions of government”. The Power Inquiry (2006) into disengagement from formal democratic politics concluded that political institutions were perceived as untrustworthy, and research commissioned by the Standards Board suggests that much work needs to be done to improve the trust that citizens have in local government (Ipsos MORI 2005, GfK NOP 2007). We are happy to share the detailed research findings with the Committee.
3. Although we don't have any data that directly links the mode of governance and decision making on public perceptions, we do have data on public confidence more generally. In a survey² commissioned by the Standards Board and carried out by GfK NOP in 2007, just over one in ten members of the public responding indicated that standards have improved (11%) and around one in seven say that they have got worse (13%). 54%

¹ Greasley S (2006) *The implementation of the New Ethical Framework in English Local Authorities*.

² GfK NOP (2007) *Public Perceptions of Ethics*

stated that standards of behaviour of local councillors in their local areas has not changed over the last few years.

4. A total of 2,030 allegations of misconduct were made at a local level between May and 31 December 2008, the majority of these (53%) originated from members of the general public.
5. Research commissioned by the Standards Board has found that the behaviour of local councillors is, on average the third most important factor influencing trust, after experience of council services and level of council tax (Cowell et al interim report, 2009)³. As one would expect, Greasley (2006) reported that public trust is affected by many factors and not just public perceptions of conduct and actual standards of conduct. For example, research commissioned by the Standards Board suggests that the media is a possible intervening variable shaping public trust. Cowell et al in their interim report (2009) have considered the impact of local media on trust and we would be happy to share this report with the Committee when it is published.

Section 3: The Mayoral model

The Committee has raised important questions about the mayoral model and requested evidence to support the hypothesis that elected mayors can help rebuild public confidence and trust in failing authorities (Para: 2.19 bullet 2 and 3)

6. The Standards Board has been dealing with cases for over eight years now. Due to the small number of directly-elected mayors it has not been possible to draw any firm conclusions from our own caseload as to whether the mayoral model is any more or less effective in engendering public trust.
7. Our investigations experience suggests that a mayoral model per se does not lead to greater expression of standards concerns than other governance forms. Our case data of local investigations shows that all mayoral authorities, excluding one, have at least one misconduct investigation recorded against them. However, the average number of cases in authorities with mayors (7) is not significantly different from those authorities without mayors (6).
8. Looking beyond investigations data and information, it is the Standards Board's view that many local factors impact on trust and confidence, with the "mayoral factor" having a relatively minor impact.

³ R Cowell, James Downe and Karen Morgan (2009) *Assessing the Impact and Effectiveness of the Ethical Framework for Local Government in England – interim report*.

9. It may be that differences in how the mayoral model works compared to other arrangements leads to different problems, and ultimately different impacts on public confidence. To give a recent example, once the mayor is elected they cannot be removed from their post for the four year term (unless disqualified by the APE). In one local authority, the mayor has recently stepped down because he is the subject of police enquiries and an allegation of corruption - but the Code does not require him to do so. A situation may arise where the mayor has lost the confidence of their party or the local public, but refuses to stand down; this could lead to various levels of friction and problems which may attract publicity and impact on public confidence. In leader arrangements the party would be able to remove the leader.
10. Conversely it is argued that the mayoral model provides more visible and accountable leadership. As we continue to mine our case data and continue to undertake research we should be able to provide the Committee with evidence on this issue.
11. The mayoral model, and in particular the London mayoral model, does locate significant decision making responsibility in one individual. It was intended to ensure that the higher profile of this individual would reignite public interest and participation in local democracy. The Standards Board does have concerns, however, that without appropriate checks and balances this concentration of power does have the potential to lead to abuse of power and the development of patronage.
12. We have two suggestions for improving the way the Mayor of London is held to account:
 - While the GLA scrutinises the role of the mayor on policy issues, it is the role of the standards committee to examine standards issues. While the law allows a member of the executive (but no more than one) to serve on the standards committee, Section 53(5) of the Local Government Act 2000 expressly forbids a directly-elected mayor or leader from sitting on a standards committee. It also forbids the committee from being chaired by a member of the executive. This provision of allowing an executive member, provided they were not the mayor, to be on the committee sought to strike an appropriate balance between ensuring the executive to be seen to be taking a lead on standards issues on the one hand while not seeking to make the committee, in the public eyes at least, seen to be open to undue political pressure. This provision does not apply to the London mayoral model and the Standards Board notes that the Mayor of London does choose to sit on the standards committee. The Committee may wish to consider whether this sends the right signal to the public about how rigorously they will be able to hold the mayor to account.
 - The Committee may wish to consider whether, given the risks arising from the particular concentration of power in London, the

GLA standards committee should carry out a yearly review of accountability mechanisms and ensure that the public are made aware of that review and its findings. This is something that the Standards Board recommends all standards committee should be doing as a matter of good practice. In the London context in particular, we believe that such a review would help ensure that the public are reassured that mechanisms are checked, that the authority is actively working to make continuous improvement, and that members can and will be held to account. The authority would also be able to use the information to demonstrate areas of strength and also identify areas of weakness.

Section 4: Role of standards committees in ensuring openness and accountability

The Committee asks for views on the role of standards committees in promoting openness and accountability (Para: 2.28)

13. We believe that standards committees play a key role in any accountability framework in local government. The main role of standards committees is to promote and maintain high standards of conduct throughout the authority. We feel that standards committees are at the heart of the standards and accountability framework. Standards committees should promote, educate, and support members in following the highest standards of conduct and ensuring that the standards are fully owned locally. They should do this by:

- promoting and maintaining high standards of conduct
- helping members to follow the Code of Conduct
- publishing the adoption of the Code of Conduct
- ensuring members are trained to understand the Code of Conduct and their responsibilities
- dealing with complaints about members
- monitoring the effectiveness of the Code of Conduct and lessons to be learned from cases
- keeping other accountability mechanisms, such as member-officer protocols, under active review
- ensuring that they have a high profile within the authority and are actively supported in their work by the leader and chief executive.

14. Standards committees have a broad role to play in creating an ethical organisation and setting an example for their councils. In research commissioned by the Standards Board, BMG Research (2007) reported that 89% of standards committee members see the promotion of ethical behaviour within the authority as their main function. There is research to confirm that creating an ethical organisation is not just about adopting and enforcing the Code of Conduct (Greasley et al, 2006), it is also about relationships, both internally and externally between members and

authority staff, and between members of the public and other stakeholders.

15. We believe that standards committees can play an even greater role in communicating effectively the accountability frameworks in local authorities. There are mechanisms by which this is done - the Standards Board encourages authorities to be proactive and innovative in promoting the accountability mechanisms. When a local authority has adopted a Code of Conduct, it must publish a notice in one or more local newspapers to help make the public aware. However, this action in itself cannot guarantee that the public is aware of the adoption of the Code of Conduct and/or complaints process. We also encourage authorities to publicise the results of investigations and lessons learned and promote their work internally within an authority and externally among the general public, so that the public are aware of the conduct of their local councillors and can take such matters into account at the ballot box. Some standards committees publish short and focused annual reports aimed at their local public, for example. A key message is that we encourage local authorities to be not just open and transparent, but also effective in their communications.
16. Six authorities shortlisted for the LGC Standards and Ethics Award which is supported by the Standards Board - highlighted the activities carried out by authorities to ensure the public are made aware of what authorities do and are made aware about the accountability mechanisms. There were some good examples, such as the use of independent members to promote the standards committees' role, a standards committee with its own communications plan, and the use of live web-casts of meetings.
17. In addition, standards committees should be supporting members through regular training programmes for councillors and standards committee members, which go beyond complaints and probity to cover a wider remit. We support standards committees in this endeavour by providing resources, such as, training materials, DVDs, presentations and notes.
18. The Standards Board will be releasing additional training materials to support standards committees in the near future. The material will consist of core modules linked to the ethical framework and will advise monitoring officers on how and when to deliver training to authorities.
19. Later on this year we will be receiving the findings from research examining the contributions standards committees make in ensuring a strong standards framework. As part of this work examples of effective practice will be collected. We would be happy to share this information with the Committee.

Section 5: What the Standards Board sees as key elements of an accountability framework in local government.

The Committee is seeking views on the key elements of an effective accountability framework (Para 2.29, bullet 1).

20. An effective accountability framework requires not just appropriate processes and procedures but an emphasis on culture and values. Below we highlight research commissioned by the Standards Board and carried out by the University of Manchester, which supports this view.

21. The researchers⁴ identified four key components of an ethical environment:

- **A balance between rules and trust.**
- **The role of effective independent overview.**
- **The importance of leadership.**
- **Transparency and openness.**

22. They reported that a system based on too many rules can be counter-productive as this creates a passive attitude to ethics based on “adherence to rules”. A tight system of regulation may undermine the publicly spirited motivation of the individuals being regulated. A large number of detailed rules are not necessarily a good indicator that an accountability framework is being taken seriously in an organisation. Jennings in another publication noted that a “focus on detailed rules makes us overlook the qualitative factors that have more control over the ethical culture of organizations” (Jennings 2006, p5)⁵.

23. That said, we believe that there needs to be a set of organisational principles and practices and not just reliance on the good will or character of individuals in organisations. If there aren’t any rules and there is an over-reliance on trust and organisational values, then this can leave an organisation open to abuse and a lack of consistency and understanding of what standards are required. The research also highlighted that a reliance on trust alone could lead to a lack of public credibility. The public need to be reassured that those who do breach the rules will be held to account.

24. There needs to be **effective independent overview**. This would involve having appropriate committees, for example a standards committee and an overview and scrutiny committee, which can oversee and hold to account members and others for their decision-making and behaviour. We believe that more work needs to be done by local authorities to raise awareness of how members can be held to account and raise confidence that such mechanisms work. We encourage standards committees to be proactive in their role, for example: overseeing protocols for members and

⁴ Greasley et al (2006), *The Components of an Ethical Environment*,

⁵ Marianne M, Jennings (2006) *The Seven Signs of Ethical Collapse, how to spot moral meltdown in companies... before it's too late*,

officers relations to see if they are actually working, overseeing the whistle blowing policy and providing training and support. Indeed, independent overview has been made stronger by the changes to the Local Government Act 2007 which made it mandatory for all chairmen of committees to be independent.

25. Anecdotal evidence suggests that currently there is the potential for overlap and confusion in the role of various committees which play a part in holding members to account (for example standards, overview and scrutiny and audit committees). Although we know of no evidence to suggest that public engagement is affected by the confusion of committee roles, if there is internal confusion about the responsibility of the various committees it is likely that the public will also be confused and less likely to engage with local authorities. As mentioned above, there is guidance on the respective roles of these committees (CIPFA/SOLACE Framework; 2007). Building on this guidance, there needs to be further work to identify models of effective practice in the relationship between these committees.
26. **Leadership** plays an important role in setting an example and communicating the importance of standards. This can involve mediation and enforcement when serious problems arise, role modelling and trying to support the credibility of the ethical framework. The research^{6,7} suggests that the role of statutory officers, such as monitoring officers, is crucial. We are aware of some concerns about the way monitoring officers are carrying out their responsibilities and we see our role as ensuring that monitoring officers are doing their job effectively. In addition, chief executives and other senior officers play a prominent role in supporting good conduct in authorities that have previously experienced conduct problems.
27. Those in positions of leadership, such as the chief executive, monitoring officers, and leader should be setting the tone by demonstrating high standards in their own behaviour. Indeed, all of the authorities shortlisted for our LGC award cited leadership as a key factor in the effectiveness of the standards framework in authorities. Similarly, the absence of effective leadership is a common theme in those authorities experiencing problems with the ethical framework (Cowell et al 2009, Interim report).
28. **Transparency and openness** are also required. This might involve easy access to information and schemes of delegation which aim to make clear who is responsible for decisions. Having good accountability frameworks does not just involve ensuring that an authority is open and transparent but that the authority **communicates effectively**. For example, there is a difference between making minutes of meetings available (which meets the criteria of being open and transparent) and explaining clearly and promoting key decisions from those meetings (which is about good communication). It is good communication which will do more to raise

⁶ Iles et al (2005) *Supporting Monitoring Officers*

⁷ Greasley et al, (2006) *The components of an Ethical Environment*

awareness of the work of local authorities and ensure confidence in their role. The Standards Board encourages local authorities to communicate their accountability frameworks both internally and externally. This might include a plain English website with details of the complaints process and also outcomes of cases.

29. The Standards Board is collecting examples of where local authorities have effectively communicated their role and the work they do. We intend to disseminate this information and so help drive up performance in this area.

Section 6: Member-Officer relations

The Committee asks if there are additional measures necessary to hold senior officers to account and, if so, what form should these measures take? (Para 2.37, bullet 3)

30. The Standards Board has responded to the *Communities in Control: Real people, real power Codes of Conduct for local authority members and employee's* consultation saying that we strongly support the introduction of a mandatory model Code of Conduct for local government employees. It is the Standards Board's view that this additional measure would strengthen existing accountability frameworks.

Section 7: The role of a regulatory body

The Committee asks the question - What is the role of external organisations – including regulatory bodies, in holding local government to account, and how this impacts on public trust? (Para: 2.29, bullet 8)

31. In a Public Administration Select Committee report (2007) it was stated that "If the link between levels of regulation and levels of public trust is complex, that leads inevitably to questions about whether it is realistic or desirable to make increased trust a goal of ethical regulation." (p15)⁸. Regulators have a role in ensuring confidence in accountability frameworks and confidence that inappropriate behaviour and decisions will be uncovered and dealt with appropriately. Knowing that members and decision-makers can, and will, be held to account may then lead to increased public confidence and trust in members and local democracy.
32. The Standards Board operates a system of redress which can be used by citizens if they feel that behaviour has fallen below appropriate standards.

⁸ Ethics and Standards: the Regulation of Conduct in Public life, Fourth report of session 2006-07

33. The Standards Board's role as strategic regulator involves overseeing the effectiveness of the national framework, advising government on any necessary adjustments, and overseeing the effectiveness of local arrangements. We will be given authority to remove the power of the standards committee to receive complaints about their members, if we believe it in the public interest (Draft standards committee (further provisions regulations) 2009). However, we believe that most local authorities take standards seriously and our primary focus is therefore on supporting those authorities who face particular difficulties whether in running an effective framework or in dealing with serious standards issues.
34. In addition, we will work with local authorities to promote public awareness of the existing accountability frameworks, so that they have confidence that the accountability framework will be able to uncover any issues and that any problems will be dealt with appropriately.
35. To be most effective, regulatory bodies need to avoid duplication and so avoid unnecessary burden on those they regulate. To this end the Standards Board works closely with partners to support a consistent approach to standards through formal Memoranda of Understanding as well as regular operational meetings. In addition we chair regular meetings with a number of partner organisations from across the UK with an interest in local government regulation (including the Committee) via a Joint Working Steering Committee. The remit of the group involves participating in projects which result in improved local ethical frameworks, and underpin transparent decision-making, better public services, and greater public confidence in local democracy.

We are also working with the Audit Commission to ensure that data we collect as part of our strategic regulatory function can be fed into the Comprehensive Area Assessment (CAA), and findings from CAA can inform our risk management approach to regulating local authorities' standards arrangements. We will take steps to increase public awareness of this joined up approach to delivery.

36. In terms of the impact of regulatory bodies on public trust, we think it is very difficult to isolate the impact of regulatory bodies from the impact of the wider accountability framework. We have also commissioned research that will investigate the impact of the standards framework on public trust. This will be a long-term study due to be completed in 2012. However, it will report regularly and we will share emerging findings from this research with you.

Section 8: Ensuring accountability in partnerships

The Committee is interested in receiving views and evidence on how local authorities ensure openness and accountability when working in partnerships (Para: 2.40).

37. We are developing a programme of work to identify solutions to the accountability and standards issues raised by partnership working. There are a multitude of partnership arrangements. Each of these partnerships will involve different remits, decision-making powers and level of resources and ultimately raise different accountability issues requiring different solutions. Therefore there needs to be an accountability framework which is commensurate with the risk involved in terms of the nature of the decision-making. For example, some partnerships will involve significant sums of money while others will involve little or no money or be merely advisory. It follows that levels of scrutiny and sanctions should differ depending on the risk. That is, there should not be a 'one size fits all' approach. However, we believe it is important that there is a locally agreed framework of values that all decision makers agree to adhere to. However, as existing partnership governance arrangements have been developed in isolation, this raises questions over the consistency and proportionality of approaches.
38. A solution to the problems of lack of clarity around standards and behaviour in partnership working may lie in the development of agreed values and behaviours. To this end we are involved in a piece of research with Manchester City Council and the University of Manchester. The focus of this research is on setting the tone for the culture of partnership working through agreeing what good behaviour looks like at the outset. It will achieve this through producing, in partnership with Manchester City Council and in consultation with Manchester City Council's partner organisations in the region, a description of appropriate behaviour.
39. This description will be based on the Nolan Principles and the experiences and needs of Manchester City Council and its partner organisations. It will articulate what appropriate behaviour looks like in day-to-day partnership working. It will be flexible and relevant to a wide range of organisations enabling organisations involved in partnerships to sign up to it. The intention is that this model agreement or protocol can then be adapted by other local authorities for their particular needs.
40. We do believe that there should be an enhanced role for standards committees in ensuring the effectiveness of standards arrangements in partnership working. The role of overview and scrutiny committees was expanded in the Local Government and Public Involvement in Health Act 2008 so that their remit includes the scrutiny of partnerships. We regard standards committees as analogous to overview and scrutiny committees, both playing key roles in ensuring an effective accountability framework within an authority.

The role of standards committees could, similarly, be expanded so that ethical governance of arrangements within partnerships fell within the remit of standards committees. We have been involved in writing guidance for the CIPFA/SOLACE (2007) document *Delivering good governance in local government* which outlines the roles of standards, audit and overview and scrutiny committees. We believe that this guidance could be built upon to provide further clarity of roles in the governance of partnerships.

Section 9: The London Mayor and the Assembly

The Committee is interested in the role of the GLA standards committee in promoting openness and accountability within London government (Para 3.15, bullet 6)

41. The terms of reference of the GLA are comprehensive and go beyond the minimum expected, with additional functions added, such as reference to the importance of high standards in partnership working, review of senior salaries function, a Code of Conduct for dealing with lobbyists and so on. It is also worth noting that the GLA has its own corporate governance framework, tailored to make it relevant to the GLA. Indeed, additional protocols give an indication that extra effort is being made by authorities on issues of good conduct and ethical management (Greasley, 2006). It is our view that as long as these measures are being actively used and are working effectively then they can only enhance or complement the standard statutory regime.

Section 10: The GLA and the four functional bodies

The Committee is interested in receiving views and evidence on how effectively the functional bodies are currently held to account on behalf of Londoners (Para 3.22).

42. Currently Transport for London and the London Development Agency do not fall within the remit of the Standards Board while the Metropolitan Policy Authority and London Fire and Emergency Planning Authority do. It is the Standards Board's view that for the purpose of consistency and clarity it would make sense for the four functional bodies to fall within the same remit. If such functional bodies are left outside an existing standards regime, it is possible that confusion may arise about how issues of accountability are managed; it follows that if there is confusion over accountability and governance arrangements, then it is less likely that the public will engage with these organisations.