Local Government Standards Regime

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[Mr Philip Hollobone *in the Chair*]

2.30 pm

Mr Philip Hollobone (in the Chair): As a local borough councillor myself, I am very interested to know what Mr Bob Neill is going to say about the operation of the new local government standards regime.

Robert Neill (Bromley and Chislehurst) (Con): Thank you, Mr Hollobone. I am delighted to see you in the Chair, not least because you were a borough councillor in my constituency before you moved to your current constituency. Most of us have had direct personal experience of local government over a number of years.

I sought a debate on this subject because the coalition agreement set out clearly the Government's intention to remove what, by common consent, I think, had become regarded as a top-heavy and excessive standards regime. It was debated at some length when the Localism Act 2011 went through Parliament—a process in which I had a certain personal involvement, if I might put it that way.

The Government's intention was crystal clear: although transparency in councillors' dealings and behaviour is rightly important, and should always remain so, and although it is important that every council has in place a code on members' conduct that is cognisant of the Nolan principles of public life, there should be flexibility within those parameters, with a view to councillors no longer being subject to the degree of inhibition that, intentionally or unintentionally, had grown up under the old regime through a mixture of the operation of the then standards regime and what many regarded as a gold-plating of the interpretation of the common law on matters such as predetermination. That was the objective; Parliament's intention in removing those inhibitions from councillors was crystal clear. It was in the interests of greater democratic involvement at local level and greater transparency. In fact, by and large the objective was uncontroversial on both sides of the House. We had disagreements over some details and means, but the objective was broadly supported.

My remarks today are not partisan. I want to put before the House certain concerns, which have come to my attention over the past few months, about how in some places the regime operates in a way that does not always reflect the intentions the House expressed when the Act and subsequent secondary legislation went through. Those concerns arise from local authorities of all political complexions; this is not a political issue.

Mr Peter Lilley (Hitchin and Harpenden) (Con): I congratulate my hon. Friend on securing the debate on an issue that deserves far more attention. He is bringing his great expertise to bear, so may I ask for his view on one of the many instances of heavy-handed interpretation of the rules that have arisen in my constituency? Councillors have been advised that if they attend a meeting held to protest about plans for redevelopment of the city centre in Hitchin, they may be deemed to have fettered their discretion, even if they announce when attending that meeting that they will not allow it to do so. Could he confirm that is absolutely not the intention of the legislation?

Robert Neill: I am grateful to my right hon. Friend for raising that case, which I have also come across. When I was the Minister responsible for signing off the regulations and the code, it was absolutely not the Government's intention that the code should be construed in that way. With respect to whoever gave the advice, it is frankly nonsense to interpret the legislation in that manner.

My right hon. Friend highlights one of my principal concerns, of which the House needs to be aware: the varying quality of interpretation of the code from one authority to another. He gives an example of a situation that most people with common sense would regard as nonsense. Rather than supporting local democracy, such cases undermine it. I am grateful to him for raising it, and I hope that my hon. Friend the Minister can restate the Government's clear view that they do not intend the code to lead to that form of inhibition.

My right hon. Friend's case parallels an instance I came across involving a councillor who was coming up for election. The big issue in their ward was whether a golf course in that ward might be subject to development. All the candidates were effectively advised that should they be elected, if they had turned up to a residents' meeting to consider that concern, they would be regarded as having predetermined any application that subsequently came before the council. It was the green lungs of that community—it was the big issue. People wanted to know where those standing for election from all parties stood on it, but the monitoring officer was giving advice inhibiting them from doing so. That was never the intention of a proper standards regime.

Exactly the same advice seems to have been given in my right hon. Friend's example, and it is worth dwelling on it, because I see that the councillor went back to say, robustly, "I've got my own legal advice, and it comes nowhere near that construction." We seem to be getting into a very dangerous state of affairs, where monitoring officers, perhaps through an abundance of caution—I put that charitably—come up with an interpretation of the law that clearly inhibits councillors from expressing a view. My right hon. Friend is right that the councillor was making it clear that they would go along, perhaps as an observer, and say, "I have come with an open mind." The monitoring officer came back and said, "Even if going as an observer, you will be taken to have predetermined the issue," because the title of the meeting started "Hitchin against" or "Save Hitchin from". Such stretching of the rules and the interpretation of the common law concept of bias brings the regime into disrepute.

I hope that this debate gives an opportunity for the Government to restate what has always been our contention: proportionate standards do not require that degree of micro-management. It does no service to councillors of any political persuasion in any community. That is one of a number of examples we have found in this field, and I was going to take the opportunity to deal with some of them today. Equally, there have been examples of real success under the new regime, and it is right and proper to recognise that.

Wiltshire, a big unitary authority, has adopted a regime that is accurately described as strong on transparency but light-touch on participation and voting. That is a sensible approach; provided council members have stated what their position is, there should be no fall back to the old idea that they must automatically be excluded from consideration if they have declared any potential interest on the record. Wiltshire has made the regime work well. Other authorities seem to have adopted a much more prescriptive and old-fashioned approach, which gets in the way of council members representing their constituents. We all know that this is a long-running problem, and it was clearly the intention of this House and Parliament as a whole to rectify it. Perhaps the difficulty is that, in some cases, the mindset of some, but not all, monitoring officers has not changed to reflect the localism agenda.

For localism to succeed, as we all wish it to, it requires two things; first, political will on the part of elected members to carry out the mandate their voters gave them; and secondly, intelligent and informed co-operation from their officers—not obstructing council members from carrying out that political will, but assisting them to do so. Sadly, we have seen the growth of a risk-averse culture in monitoring standards and the way in which councils transact important areas of business. That risk-averseness needs to be addressed.

It is sometimes difficult for an individual councillor—perhaps newly elected to a small authority or a back bencher in a large authority—to stand up, as my right hon. Friend's constituent did, and say that they have access to advice that frankly brings the monitoring officer's view into question. It is therefore all the more important that we make it clear that that sort of gold-plating is needless and unhelpful. There have been many such examples around the country, and I am happy for hon. Members to raise others during this debate, because I know that they are important and pressing.

The problem relates not only to an overly restrictive approach to the interaction of the code and predetermination, but to the approach taken towards councillors who do their public duty. That duty may sometimes involve saying controversial things about the operation of the authority itself, but it is wrong—as it has been in some of the cases that I have seen—if, in effect, that is used to gag a member from speaking out. I will happily give a few examples.

The first example was raised by Lord Tyler in the other place during the passage of the Localism Act. A member of Cotswold district council who had acted as a whistleblower found himself the subject of a complaint. Ultimately, the complaint was dismissed, but it was a trying and difficult process for that member. Members often find themselves alone, and as Lord Tyler put it—describing exactly the vice that we sought to avoid—councils have

"catered for—even encouraged—persecution of whistleblowers".

That is strong language to use. I do not know whether the word he used is appropriate, but that is sometimes the effect. Of that case, Lord Tyler said that

"one assiduous councillor, doing precisely what electors expect of him, has been proved right in identifying potentially illegal activity".—[*Official Report, House of Lords,* 14 September 2011; Vol. 730, c. 830.]

Instead of the whistleblower being encouraged or supported to bring information into the open, it seems that the Standards Board regime was used to bring a complaint against him, albeit the allegation was ultimately ruled to be unfounded. That is exactly the type of behaviour that we intended to end, but unfortunately that has not happened in all councils. I have already given the example of Wiltshire council adopting a proportionate and sensible approach, but there are examples of members having to fight very hard against the mindset of officers who want to retain, in effect, the whole of the old system, with the exception of the Standards Board for England regime, which has obviously gone.

A cabinet member of a district council in the home counties told me that they had been put under considerable pressure by officers to adopt a code that, in effect, simply transplanted the old regime and put it in place without any changes. It happens that that cabinet member is married to a senior partner in one of the leading local government law firms in this county, so they were able to go back to the monitoring officer and say robustly, "What you are advising me goes well beyond what is necessary. We are not obliged to rewrite all the old rules on predetermination and bring that into our code," but how many members would have been in a position to challenge the officer's advice, just as the constituent of my right hon. Friend the Member for Hitchin and Harpenden (Mr Lilley) did? That is a serious issue.

There is a serious question about the way in which monitoring officers sometimes operate. That job seems to have grown. Many monitoring officers—those in my local authority, for example—are excellent; they do a thoroughly good and professional job and it would be wrong to say otherwise. In other instances, however, the role is either amalgamated with other functions or, frankly, does not always seem to be held by somebody with any considerable degree of legal expertise, which is not satisfactory.

I have some examples from councils across the country. One councillor said that they suspect many monitoring officers are still attempting to control elected members—these are the member's words, not mine—and to frighten them into leaving the chamber on the very flimsy grounds of having interests to declare; and whenever important issues come up for debate, the councillor has found that a paper entitled "Monitoring officer guidance" is included with the agenda, and this tries to direct the members with veiled threats. Whether it is intended in that way, I do not know, but, inadvertently, heavy-handed guidance can certainly have the effect of inhibiting members who are confronted with it. It seems bizarre that every item of any significance should require monitoring officer guidance. That takes the regime well beyond the monitoring officer's real and proper role, which is to ensure that the council acts lawfully and intra vires, and appropriately to police whatever the code is.

It is worth looking at another county. South Norfolk district council adopted the very light-touch code that was issued, when I was still a Minister, by the Department for Communities and Local Government. That has worked well and entirely satisfactorily. Norfolk county council has adopted an extremely complex code, which is, in effect, the old-fashioned one by another name. We now have the bizarre situation of the leader of the county council being subject to a complaint from the district council leader about what is essentially a dispute between county and district about the site of an incinerator. I do not make any comments on the merits of that dispute one way or the other, but the idea that a legitimate political debate should find itself up in front of the Standards Board is to use the old thinking and procedures, which it was the Government intention to remove.

Other councils have seen even more striking and worrying examples, and I particularly want to refer to the London borough of Tower Hamlets. That authority has a directly elected mayor. He is an independent, but it is well known that he has close connections with the Respect party. The mayor is supported by sufficient independent members to ensure that he has the blocking third to get the necessary budgets and mayoral policies through. However, throughout his time, there has been a history of vexatious complaints against members of the opposition Conservative and Labour parties—Labour is actually the largest party—made by members of the mayor's cabinet. Councillors appointed by the mayor to his cabinet have made complaints particularly against the leaders of the Labour and Conservative groups. Sometimes the complaints have not come to fruition; in other circumstances, they have. That causes real concern.

The monitoring officer of Tower Hamlets, Isabella Freeman, is also the assistant chief executive for legal services, and the monitoring officer is also the person who advises the mayor. There is now a situation in which the monitoring officer, who advises the mayor and polices the regime, regularly investigates complaints by a member of the mayor's cabinet. On the other hand, complaints against members of the group who support the mayor have not been taken forward for investigation, which inevitably raises concerns as to who monitors the monitoring officers in such cases. In that case, the monitoring officer is herself in dispute with her employer—the authority—and there is apparently an industrial tribunal case ongoing, but the monitoring officer still sits in and carries out her functions, even though they involve councillors who may be witnesses to those proceedings.

Tower Hamlets has reached the extraordinary stage of members from several parties passing a motion to have certain disciplinary steps taken in relation to the monitoring officer. We might have thought that the monitoring officer would have withdrawn from the meeting at that point; instead, she insisted on remaining, and noted what was said by every member, which hardly gives the impression of an unbiased, open and transparent approach. Freedom of information requests in relation to only two of the complaints have revealed that some £6,000 of public money was spent on investigating a complaint against the leader of the Conservative group and that some £12,000 was spent in relation to a complaint alleged against the leader of the Labour group. No such complaints have been taken forward in the same way against the group that supports the mayor. That may be a particularly egregious example. At the same time, however, members raised complaints with the monitoring officer about a highly partisan publication, *East End Life,* which is the subject of great controversy, and the monitoring officer responded that everything that the mayor had put in that publication was in order. The same monitoring officer gave advice that the mayor was not obliged to answer certain questions from members in the council in relation to the exercise of his functions because that might infringe his human rights. That, frankly, brings the standards regime, which we all want properly and proportionately exercised, into serious disrepute. That is not in anyone's interests.

The matter that has arisen in relation to Tower Hamlets seems, on the face of it, to be frankly scandalous. It involves one important case that comes back to the whistleblower point. An opposition councillor raised an issue concerning an applicant for a senior post in the council, and it was demonstrated that that applicant's CV was inaccurate in an important and material respect. The applicant had been obliged to resign from a previous employment, and that was not placed on their CV. That achieved a degree of national and regional publicity, not surprisingly.

The result was a complaint by the same member of the mayor's cabinet, who was a frequent source of the complaints, against that member. That was investigated and the member set out in considerable detail their side of the matter. The hearing took place within weeks of the abolition of the Standards Board regime, and the member was not present. The upshot—I have to be careful what I

say—was that within days of the regime being swept away, rightly, by the will of Parliament, the standards committee, which, I understand, consisted predominantly of members who supported the mayor, referred the matter to the first-tier tribunal, where it remains. The purported view of that seems to be that in relation to a complaint that was some two and a half to three years old—never mind its the merits—there was a desire, frankly, to invoke suspension of a leading critic of the mayor. That was why it was being taken to the first-tier tribunal, which refused to entertain it. Now, I gather, there may be attempts to appeal that.

That sort of abuse of the system brings local government into disrepute. It is right to have that on the public record, because that is not how the system is intended to be used. I hope that the Minister will confirm that the Government's intention has been that, as of 1 July, the ability to suspend or disqualify a member should not be exercised in the standards regime, but that instead such a power is exercisable when the criminal offence of failing to disclose a pecuniary interest, which came into force on the same day, is committed. The case that I mentioned had nothing to do with a pecuniary interest of any kind; a councillor was doing what many people would regard as their duty by pointing out something that might have been seriously misleading in relation to an important and sensitive public appointment.

The fact that that member should have hanging over their head the prospect of defending themselves in legal proceedings before a first-tier tribunal—brought, of course, at public expense—when it is known, and was known when the decision was taken, that the power to suspend was going to be removed, is an abuse of the system. I hope that we can make it clear and restate that it was never Parliament's intention that the transitional provisions that were brought into place when the Standards Board regime was abolished should be used in that way. That, too, is an important example of where we need to look more closely at how things work.

I want to refer to one or two other examples that illustrate the issues that need to be addressed, and again, there should be political consensus between us on this. My right hon. Friend the Member for Hitchin and Harpenden referred to the case that occurred with his constituent councillor and what was said in relation to the campaign group, and that is not the only case I have come across. I am aware of a council that resolved that councillors should not meet developers, full stop. It seems to me that that kind of blanket interpretation of the rules goes well beyond anything that Parliament intended. We all know that development applications have to be treated with great care and sensitivity, and it is important to ensure that proper process and probity are observed in all such instances, but the idea of such a blanket prohibition seems to me to be fundamentally wrong.

Richard Drax (South Dorset) (Con): I apologise for being late, Mr Hollobone. My hon. Friend is making an excellent speech and raising some important issues, which occur right across the country. As for councillors' involvement with local government, when I ask my constituents whether they have spoken to their local councillor, they say that they have but that the councillor cannot say anything—I suspect that many of my colleagues hear the same thing—either because the rules have been misunderstood, or because, in some cases, an anxious or over-zealous monitoring officer has put the fear of God into councillors. Clearly, there is a big misunderstanding in such areas, which should be cleaned up as soon as possible.

Robert Neill: My hon. Friend is absolutely right, and in a number of instances right across the piece, we have come across precisely that fear of God being put into members, many of whom are voluntary public servants, sometimes in quite small district or parish councils, where they do not necessarily have access to independent advice. A forceful expression of opinion, however questionable, by the monitoring officer can often understandably intimidate, whatever the intention. We need to deal with exactly that issue.

One of the things that we specifically did in the Localism Act 2012—again, it was not, of itself, a matter of controversy in the House—was to clarify the law in relation to predetermination. There is no doubt that the common-law rule had been seriously gold-plated in the advice that monitoring officers were giving, to the extent that, essentially, people were being told, "You really cannot say anything about this planning application, otherwise you will be taken to have predetermined it." That is wrong, and it is not what the case law ever was, but that is how it was interpreted in all too many cases.

I am grateful to my hon. Friend for highlighting that, because the fact that advice to that effect continues to be given demonstrates, despite the will of Parliament and despite the guidance clearly set out by my hon. Friend the Minister's Department, that that message is not always being taken on board by some monitoring officers. That is in danger of undermining the potentially good work that is being done by the legislation.

My right hon. Friend the Member for Hitchin and Harpenden quoted from the example of his councillor constituent, and I will read out the detail of the advice, because it also touches on the point made by my hon. Friend the Member for South Dorset (Richard Drax). It is worth reading it out to give you the whole flavour. It was headed "Members' information note", and it provides

"Guidance on pre-determination regarding public meeting 'to oppose an extension to the Simons contract to redevelop the centre of Hitchin'".

That is all well and good, and it is an understandable matter of public concern. Under the heading "Summary of advice," the document states:

"Attendance at a public meeting that has a clear purpose of opposing a particular course of action or proposal, and which includes at item 3 on the agenda a "vote", is very likely to be regarded as evidence of pre-determination of the matter. Either attending the meeting as an 'observer or listener' and/or declaring at the start of the meeting that one is approaching the matter with an 'open-mind', could still lead to perceptions and allegations of bias and pre-determination, due to the current stated purpose the meeting."

The member went back on that advice and, as I say, rightly went along to the meeting.

Frankly, that advice was nonsense. If that sort of advice is being given, the sooner that it stops being given the better, because it is not legally sound and does not accurately reflect section 25 of the Act, which says:

"A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because…the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or…might take, in relation to a matter".

Simply turning up as an observer is certainly doing something, but it could hardly be regarded on any sensible interpretation of the statute as being an act that would tend to predetermine a councillor in relation to a decision.

Basically, bad legal advice is being given to members, and it undermines the proper purpose of the standards, which is to ensure probity, decency and honesty in the conduct of our affairs. When there is nonsense advice of that kind—if I may put it that strongly—it makes it harder to enforce the system in the important cases where a proper red line has to be drawn in relation to members' conduct. I am afraid that the example that I have just given is one of a number that seem to exist.

Another issue that has concerned me considerably is the attitude of officers towards members at times. Again, I do not want to say that that attitude exists in all cases. In my experience, the majority of officers work sympathetically and constructively with their members. However, a district councillor in Surrey has written in strong terms. Again, it relates to a planning application and let us remember that one of the reasons that we got rid of the previous standards regime was that a vast number of the complaints—something like 60%-plus—turned out to be essentially vexatious. I think that only about 28% of the complaints ever got taken forward properly and many of those related to things such as disputes on the parish council or the fact that someone was aggrieved that a planning application went a particular way; they were related to things that really had no foundation.

In the case in Surrey, there was a controversial planning application and clearly the member had expressed a view; I do not know which way they went, or did not go, and perhaps it does not matter for the purposes of this debate. Nevertheless, it caused the aggrieved applicant to make a complaint

to the Standards Board. Essentially, what happened was that an investigator was appointed by the monitoring officer; the investigator questioned the councillor for 10 and a half hours in two meetings, as well as e-mailing the councillor a large number of questions; and on the second occasion, there were another 56 questions, almost as though everything that was being said by the complainant was being taken as read, without any attempt to apply any discretion about the merits of the case and whether it actually warranted that level of investigation.

The matter then dragged on for a number of months, the councillor rightly involved her MP and her conclusion was that

“The sword of Damocles is hanging above us and if someone says something the public don’t like, the sword will fall.”

It has never been the intention of Parliament that that should be the case or that any councillor should feel that way, regardless of their party and their views. The councillor in Surrey says that she has been a member for 16 years, having been returned about four times by her electorate, and for a member of that experience to feel like that indicates that something has gone wrong with the way in which the regime is being applied. The sad comment from the councillor is that:

“The Council were extremely bad with me throughout the entire investigation. They did not help or support. In fact the very opposite. The then CE—”

That is, the then chief executive—

“could not have been less kind or caring and made things worse.”

In fairness, she also says that the current chief executive adopted a different approach, and it is right to say that as well. However, the fact that an experienced councillor has to write in those terms indicates that there is a problem, and reinforces the point made by my hon. Friend the Member for South Dorset that public servants are feeling inhibited from doing the right thing by their communities.

Richard Drax: My hon. Friend is being very generous in giving way, and again I must say that his speech is quite excellent. I want to raise another issue with him that I have certainly found in my constituency—again, I suspect that colleagues have also found it in their own constituencies—regarding planning applications.

Planning really is the most contentious area. In my experience both as an MP and as a former journalist—I was a journalist for some 17 years, sitting in on these planning committees—many of the councillors had not even been to the sites that they were considering, because they claimed that they were not allowed to go to them. Yes, there is a drawing that shows what is intended, but that does not show what is around, the buildings nearby, the proximity of perhaps an ancient monument—I do not know, whatever is around the site—so councillors get a completely false perspective and potentially often make the wrong decisions. Is there anything that we can do to stop that happening and perhaps introduce more common sense?

Robert Neill: What we can do to help my hon. Friend in that regard is to promulgate the good practice and what is perfectly permissible. I know from my time as a member of a planning committee that it was perfectly standard practice in many authorities, and it should be perfectly open anywhere, for site visits to take place. It is probably best that members of the committee and the officers go together. That is what is usually and sensibly done, so that they all go in a group, and because the officer is present, there can be no suggestion of improper contact between the members of the committee and—let us say—the applicant or an objector. That can be sensibly done; many authorities do it; and those authorities that do not do it, and think that it cannot be done, should be told that it can and should be done.

Frankly, most of us would hope that with the new approach to empowering members, officers would look for ways to say, “Yes, we will enable a site visit to take place if members wish it, with the proper safeguards in place to make sure that there can be no accusation of impropriety.” It happens in many

places, but the fact that it is not generally known that it happens is perhaps a real concern, as my hon. Friend suggests. Perhaps it is something that the Government need to think about doing, perhaps working with the Local Government Association and the local government community in general to ensure that that sensible good practice is rolled out.

It is interesting that my hon. Friend raises the issue of planning, because it comes back to the point about members being told not to meet developers. One of the few things on which I agreed with the former Mayor of London, Ken Livingstone—there was not much on which we agreed, as hon. Members will know—was that he had a very sensible and proportionate approach to dealing with planning applications that came before him. By their very nature, they were very often strategic applications, potentially involving large sums of money and important social impacts.

When he was Mayor, Ken Livingstone met applicants under those circumstances, he did so with an officer present and everything was properly minuted. Although I have accused the former Mayor of various things over the years, nobody would ever have questioned the total integrity with which that process took place, and indeed it continues under his successor, Mayor Johnson. It was a sensible and proportionate thing to do; Mayor Livingstone was right to do it and Mayor Johnson has been right to continue doing it. However, if they had listened to the sort of advice that my hon. Friend the Member for South Dorset referred to earlier—the advice given to his colleagues, or that we have seen in some of the documents that I have referred to—they would not have done it and those meetings would not have taken place.

Actually, very often the involvement of members in planning applications can be constructive, provided that it is done with total probity. There are plenty of examples of how the engagement of the ward members has enabled a scheme to be refined or adjusted in such a way that what was potentially unpalatable to a community can be made palatable, and actually the application can be improved by the involvement of the local members. Consequently, such involvement is not only something that should not be obstructed but something that ought to be positively encouraged as a matter of good practice. So I am grateful to my hon. Friend for raising that point about planning.

The other issue that seems to have arisen recently, and that I hope my hon. Friend the Minister will be able to deal with when he responds to the debate, relates to pecuniary interests. I was rather surprised to see advice that is being given to a number of councillors, that they should be regarded as having pecuniary interests in effect because they are council tax payers. Again, that advice is all set out in legal documents, which I could happily quote, but if that advice is not nonsense then I do not know what is. Once more, I must say with a sense of frustration that that sort of advice or idea is exactly what I spent two and a bit years of my life as a Minister trying to get rid of, and I feel that perhaps I have failed and that perhaps it is my fault, because I did not make that message clear enough. I hope that that is not the case, but what I have described today is happening in a number of local authorities. In addition, I regret to say that when I looked at some of the e-mails that I have received on this subject, I see that such practice seems to be based on a view taken collectively by a number of monitoring officers.

Like most professions, monitoring officers are not without their collective bodies. They are worthy people; I met some of them on a number of occasions when I was a Minister. However, that does not mean that they always get these ideas right, and the idea that simply because someone pays council tax they should be regarded as having a pecuniary interest is another idea that I hope the Minister will make clear today was never the intention of Parliament. Hopefully, this debate will give us an opportunity to send out a message—to officers that such advice is wrong, and to members that they should not feel constrained by such advice. The idea that someone would have to get a dispensation for every member of a council in effect, so that they could vote on the council tax in their area, is a nonsensical interpretation.

John Glen (Salisbury) (Con): Reluctantly, I have to point out the situation in Wiltshire. A local Labour councillor contacted me saying they had received an e-mail from the ethical governance officer. It said that the current legislation referred to councillors having

“a disclosable pecuniary interest in any matter to be considered”.

The reference to “any matter” was essentially used to justify people not voting on anything, which is utterly absurd. When I responded to the councillor, I said that common sense was required, and I do not think that my advice and input were welcome. However, it is ludicrous that the legislation has been interpreted in such an unhelpful way.

Robert Neill: My hon. Friend is absolutely right. It is a sad irony that Wiltshire, having got the structure right and achieved a sensible, light-touch, proportionate structure, seems none the less to have been giving out advice on a specific point that is clearly wide of the mark. That issue needs to be raised with monitoring officers generally.

Richard Drax: The mobile phone is a marvellous bit of kit: as my hon. Friend was talking, the leader of the Conservative group on Purbeck district council raised the same point with me. I asked him whether there were any points he wanted to raise, and he said that,

“under new rules we have to declare an interest to set the council tax.”

Funnily enough, that is the very point that my hon. Friend has just raised, and the comment I have read out reinforces it.

Robert Neill: I am immensely grateful for my hon. Friend’s presence, because he has allowed us to have a debate in real time, which is extremely useful. His point highlights the issue and takes well into double figures the number of instances I have come across of such advice being given out. As everybody in the room knows, that advice is clearly wrong.

That raises questions about the quality of advice monitoring officers sometimes give. We all know it is important to have a monitoring officer—something that goes back to the Local Government and Housing Act 1989. However, some of the mission creep that has come into the monitoring officer’s role raises questions. I hope the Minister will be able to comment on what the Government see as the proportionate and appropriate use of monitoring officers to ensure probity without creating an industry via the back door. One complaint about the previous standards regime was that whatever its intentions, which were good, it created an industry that was expensive for the public purse and that had the effect—probably unintentionally, but this was the reality—of being something of an inhibitor of open public debate. The whole objective subsequently has been to put an end to that.

All too often, there seems to have been pressure on members simply to recast the old regime but give it a localist badge. An extremely restrictive interpretation of the legislation, which goes well beyond case law or statute, persists all too frequently. My hon. Friend the Member for South Dorset has given clear examples in relation to planning matters and the key issue of council tax. District monitoring officers also sometimes give such advice to parish councils in their area. Whatever the intention, if that advice lands on a parish councillor, who might have just a part-time clerk or something of that kind, it will be extremely intimidatory. I have had a number of e-mails from members across the country saying, “I’m wondering whether it’s worth standing for my parish council again.”

In a number of instances, the provisions on spouses’ or civil partners’ pecuniary interests have been misinterpreted. Initially, a flurry of advice seemed to suggest that council members would have to give the name and details of their spouse or civil partner. The Department sent out a letter—I may have written it myself—to all council leaders making it clear that that was not the case, and that the interests of the spouse or civil partner are regarded as the member’s interests. Therefore, if a member’s wife or partner owned a relevant property that should be declared, it was declared, but under the member’s name; it was not necessary to give details about their wife or civil partner. The fact that misleading advice was given, and still seems to be given, indicates that the message might not have been fully taken on board. Under certain circumstances, such advice could deter worthwhile and valuable candidates from coming forward for election. That is disproportionate, and it is important that we get a sense of proportion back into these matters.

That brings me back to the quality of the monitoring officer and what their proper role should be. There is flexibility at the local level, and that should of course be the case. However, one councillor who has raised serious concerns with me states at the end of his e-mail that he was one of the first

monitoring officers to be appointed under the 1989 Act—he had obviously retired and, having been a local government officer, decided he had not had enough, so he became a member instead, which is absolutely admirable. He said that, when he was a monitoring officer, he had done about one and a half hour's work a week as part of his other responsibilities. However, he said that the role in his district council had mushroomed and was becoming a full-time job, which was never the intention in a proportionate scheme. Obviously, the work load and the demands in a big authority will be greater, but all too often it seems to me and to many members who have contacted me that there has been an exponential growth in the monitoring officer role, which sometimes leads to advice that is not accurate or focused and to an attitude that can be intrusive. That is important, and I hope the Minister can give us some idea of the Government's thinking on making sure that there is clarity on the issue, and that councils do not feel the need to over-engineer a solution.

I also hope the Minister will be able to comment, in so far as one can where matters are potentially sub judice, about the extremely concerning situation in Tower Hamlets, where there does not seem to be the independence and transparency that one would wish for in the operation and governance of the council and in the monitoring officer's role within that. There is a risk of members being worn down by serial complaints against them that are not filtered out at an early stage.

Let me give just two more Tower Hamlets examples to conclude. One involves a complaint—I am glad to say that nothing came of it in the end, but it still took time and investigation—from Councillor Alibor Choudhury, the cabinet member for resources, who is a regular complainant, against the leader of the Conservative group, Councillor Golds. An interim chief executive had been appointed. In the council meeting, speeches were made welcoming that officer to their post. During the debate, Councillor Golds referred to the fact that he was looking forward to appointing a proper chief executive in due course. That was the subject of a complaint, on the basis that it showed disrespect to the acting chief executive, as well as bias. The acting chief executive actually wrote saying, "It does no such thing. I didn't feel in the least bit offended by that." It was pretty clear that Councillor Golds was referring to a substantive appointment being made in due course, which everybody would wish to see. The fact that the issue was dragged through the standards regime in Tower Hamlets suggests that not just old mindsets but questionable mindsets were being applied.

A further complaint was then raised—interestingly, three complaints were all made within about a month of each other, and the same cabinet member was a party in each case. In this case, the allegation related to the matter that is now working its way through the first-tier tribunal. A third complaint was then made, this time about a member's suggestion—it was made by the same leader of the Conservative group, as it happens—that a ward be renamed. It is a sensitive issue locally whether the ward is called Spitalfields and Banglatown or Spitalfields, but the fact that it should trigger a complaint of racism is well beyond anything the provisions were intended to do. The complaint was ultimately taken no further, but a great deal of public money went into dealing with it. Any proportionate system of monitoring would surely have weeded it out at an early stage. As I say, the same council spent £18,000 investigating the two opposition party leaders. At the same time, the monitoring officer declined to investigate complaints against members of the party supporting the mayor.All those cases raise a specific matter in relation to Tower Hamlets. However, they also raise a specific, important point, which I hope the Minister will be able to clarify, about the use, or perhaps abuse, of the transitional provisions, which were intended essentially to enable members who might be involved in an outstanding complaint to clear their names by going to the first-tier tribunal. I do not know how many such instances, if any, we have on record of attempts to use the transitional provision in that rather extraordinary way, but it is clearly not what Parliament intended.

I hope that I have done enough to give a flavour of the areas of concern that I want to set before the House. I do that not in any spirit of criticism of the Government, because they have been doing the right thing and there was, broadly, a measure of consensus in the House about wanting to ensure that we have proper standards. Making sure that our public affairs at a local level are conducted honestly and transparently, having good quality candidates from all backgrounds coming forward for election, and enabling voters to believe that their members can do and say things that make a difference are critical to the health of local democracy. All of that was clearly the Government's intention when we carried out the reforms and it was clearly Parliament's intention when the new arrangements were put in place.

I hope that we will be able to use this debate to reinforce and clarify the message that the new regime is about empowering members, not inhibiting them, and that advice to the contrary is incorrect and should no longer be given out. The Department should use its good offices, working with the Local Government Association and the local government world generally, to ensure that members are not subject to the kind of unintended and inaccurate pressure that undermines our shared objectives.

Helen Jones (Warrington North) (Lab): It is a great pleasure to be here under your chairmanship, Mr Hollobone. I congratulate the hon. Member for Bromley and Chislehurst (Robert Neill) on securing the debate. He and I have often clashed across the Dispatch Box, but no one doubts his commitment to or interest in local government, in which he served with distinction for several years. I am sure that that experience is sadly missed at the Department for Communities and Local Government.

The hon. Gentleman raised some important issues this afternoon about how we maintain appropriate standards of conduct in local authorities without imposing a burdensome and costly regime that encourages frivolous complaints. We have seen that in local government—we occasionally see it in the House—and it is something that I deprecate, because it brings politics into disrepute. Dealing with serious wrongdoing is one thing, but making frivolous and politically motivated complaints is something else entirely.

The hon. Gentleman hit on several important issues about the operation of the current regime that are worth considering. He is absolutely right that the best safeguard against wrongdoing is transparency. If people know a member's interests—just as in this House—and can then judge their vote accordingly, that is the best safeguard against anything going wrong. The hon. Gentleman is also right that members in local government are often given bad advice, and it is particularly difficult for those who are new or who do not have a legal background to challenge it. Part of the problem exists particularly in the planning system, where officers, especially monitoring officers, get frightened of big development firms and their lawyers. They sometimes seek to protect councillors from the effects of that, but they often go the wrong way about it. A firm in my constituency that wants to carry out a development that I oppose is, I think, working up attempts to try to intimidate me. I am not intimidatable. It is a waste of time. However, some councillors do find themselves in that position because of poor quality interpretation of the law.

We ought to say clearly that no standards regime should prevent an elected representative from talking to those who elect them or, as the hon. Member for Bromley and Chislehurst said, from talking to developers in an appropriate setting where an officer is present to minute what is said; and yet that often happens. The hon. Gentleman also mentioned complaints being made against whistleblowers, which is extraordinary and, again, not what the standards system was ever intended for. Although it is fair to say that none of us is nostalgic for the old regime, which he rightly said became an industry in its own right, we need to ensure that the current regime operates properly and that people are giving proper advice.

The hon. Gentleman discussed Tower Hamlets and the particular difficulty that arises when a monitoring officer wears two hats. If the Minister is able to comment on that, I am interested to hear what he says, because it is clear that the situation there is not conducive to good local government and to delivering the best service to those who elect us. The issue of monitoring officers going over the top on trivial complaints was also mentioned. I am not for one minute saying that they all do that, but the hon. Gentleman gave one example of a member being subjected to 10 and a half hours of questioning over something small and trivial. That is ridiculous. Any system must be proportionate.

The hon. Gentleman is quite right about wrong advice being given on the declaration of pecuniary interests. My local authority's members have been told that if they are council tax payers, or if their spouse is a council tax payer, as it is their name on the bill they must all declare an interest when they set the budget, and then apply for an exemption. He is also right that it is not only in big authorities that that happens. My husband is the leader of Culcheth and Glazebury parish council. I try not to let it go to his head but, following a swing to Labour in our village, it is now a Labour-controlled parish council. Its members have been told that, before they set the parish precept, anyone who is a council tax payer or is the spouse or partner of a council tax payer must declare an interest and ask for an exemption. Of course they have an interest; they live within the parish. It is a parish council. People who are elected either come from within the parish or very near to it. Those are the rules. When

people elect them, they know that. No one is suggesting that parish councils around the country are abusing their right to set the parish precept because they happen to pay it. Quite frankly, it is getting ludicrous and we need to look at how we can give councils proper advice and work with the Local Government Association to ensure that they get that advice.

I have one or two queries for the Minister about how the system is working in other ways at the moment. He will remember that the Government's original proposal was not to have a requirement for local councils to maintain a code of conduct. Following amendments in the other place, common sense prevailed and local authorities were required to maintain a code of conduct based on the principles of the Committee on Standards in Public Life. Councils can now decide for themselves whether they want to amend or replace the existing code. It has not been mentioned, but how they fulfil the duty imposed on them by the Localism Act 2011 of promoting and maintaining standards is important. Work needs to be done to ensure that all councillors, particularly new ones, are familiar with what is required of them, are adequately trained and take a sensible view of such things.

The 2011 Act also provided, as the hon. Gentleman said, for the registration of members' interests and for the appointment of an independent person to advise the council before it considers an allegation against a member. Will the Minister tell us how that is proceeding? Quite often—we have done it in this House—we believe that we must get an independent person in to advise on this, that and the other. It is as if there is a pool of people out there just waiting to jump in and do that. It would be interesting to hear from the Minister whether he is aware of any problems with councils finding people to undertake the role, which is, after all, purely advisory.

Before the regime came into operation last June, the Committee on Standards in Public Life, with which we are all familiar, expressed concern that a large number of local authorities were unprepared for the new system. The committee said that nearly half of those who had replied to its inquiries had yet to adopt a new code, and that four fifths had yet to appoint this mythical independent person that we are all to find from somewhere. I wonder whether that lack of preparation on the ground has in fact led to some of the problems that the hon. Member for Bromley and Chislehurst outlined. Will the Minister update us? How many authorities, if any, still do not have a code of conduct in place? How many have yet to appoint an independent person to advise them on complaints? If there are any such authorities, will the Minister tell us what his Department is doing to ensure that the law is observed in that respect, and what advice it is giving to councils?

The Committee on Standards in Public Life also—wrongly, I think, in this case—had concerns about the robustness of the new arrangements, and argued that the codes needed to be supported by independent scrutiny. I am not convinced by that argument, because I believe that as long as complaints and any decisions about them are dealt with openly and are open to public scrutiny, that is all we need. Such committees as this tend to overlook the fact that members are ultimately accountable at the ballot box for their conduct. There is the famous Hillary Clinton quote about Bill: "If you don't like it, don't vote for him," and it is as simple as that. Unfortunately, most of us do not have the charisma of ex-President Clinton, and we have to rely on other things to get us re-elected.It is important that members of the public understand the new regime and that steps are taken to inform them of how complaints are dealt with. I know, and I think that the hon. Member for Bromley and Chislehurst knows from his constituency, that there is often great confusion among members of the public about how to make a complaint against a councillor. It is members of the public that we are trying to cater for here; we are not dealing with cross-party allegations. A number of people have recently written to me because they are upset about a particular planning decision, in the belief that I can deal with complaints against local councillors and can somehow impose my will on them. I have had to explain that there is a separate electoral mandate for councillors, and that complaints against them are dealt with differently. If the scheme is to work well, we need to address that confusion.

The Committee on Standards in Public Life made an important point, which relates to what the hon. Member for Bromley and Chislehurst said earlier about the need for guidance and training on the new system, and about the application of appropriate penalties if the system is breached. Will the Minister tell us how the need for training is being dealt with in local authorities, for those involved in the new standards regime? Does he know how many local authorities have provided such training for their members—not their monitoring officers—and does he have an indication of how well that is going?

I want also to mention sanctions. As the hon. Member for Bromley and Chislehurst rightly said, the 2011 Act makes it an offence for a member without reasonable excuse to fail to register or declare a pecuniary interest. That can be dealt with by a magistrates court and, in the most serious cases, a £5,000 level 5 fine can be imposed upon conviction. I do not believe that most of us would have a problem with that in really serious cases, but we all know that most cases are not like that, dealing, as they do, with less serious breaches of the code of conduct. Since suspension is not an option, is the Minister convinced that local authorities have enough sanctions available to them to deal with breaches of the code? If a member of the public makes a complaint and the complaint is upheld, that person needs to be satisfied that the complaint is being taken seriously and dealt with appropriately, and I am interested in hearing the Minister's views on that.

I was recently told of an independent member of a local authority who refused to sign the code of conduct. The legal advice given to the authority was that it had no way of making the person sign. The argument was that if he did not sign he was not bound by it. It is different with political parties, because they can impose on their members the necessity of signing the code—someone cannot be a member of the group until they do that. This is an interesting case, and if the Minister cannot tell me today how it should be dealt with, perhaps he would be kind enough to write to me, in order that the case might be resolved.

I accept that it is very early days, because the new system has been in operation for only six months or so, but although none of us wants to encourage frivolous or politically motivated claims that are not based on fact, it is important that the public have faith in the system and believe that their complaints will be properly dealt with. The vast majority of councillors, of all parties I think, simply want to do a good job for their local community, and they give up a lot of time and contribute a lot of effort. They too, therefore, need the protection of an appropriate standards regime and the assurance that breaches of the code of conduct will be dealt with. That is right for the public, but it is right also for the vast majority of councillors in this country who are honest and hard-working. Will the Minister undertake to consider over the coming year how the system is working, look into the problems that I and the hon. Member for Bromley and Chislehurst have mentioned, and report back to the House if action is needed?

We cannot take issues such as this lightly, and the hon. Member for Bromley and Chislehurst has made that clear today. Local councils are an important part of our democratic structure. They can, and often do, produce enormous benefits for their local communities, and they deal with serious and important matters—things that affect people's social and economic well-being—but it is precisely because of their importance that we need to ensure that the standards regime works properly, maintains public confidence and is not abused, and that councillors get the right advice to enable them to comply with what is required of them. That is extremely important, and I hope that the Minister is able to assure us on those issues when he replies.

The Parliamentary Under-Secretary of State for Communities and Local Government (Brandon Lewis): I am grateful to my hon. Friend the Member for Bromley and Chislehurst (Robert Neill) for providing this opportunity to have what is, in the light of what is going on, a hugely important debate. The debate is also timely because the Localism Act 2011 received Royal Assent more than a year ago—I enjoyed several months on the Public Bill Committee with my hon. Friend, as Minister, taking the legislation through—and just over six months ago, on 1 July last year, the new standards regime came fully on stream.

I pay tribute to my hon. Friend for the central part he played in doing what I think most people in local government—perhaps not monitoring officers—will for ever be grateful for: abolishing the old Standards Board regime, thereby fulfilling an important coalition agreement commitment, and overseeing the establishment of a new regime, which should be opening the way for councils to put in place their own new localist standards arrangements. I will be clear with the House on this: I am a fan of old-fashioned democracy and I believe there is a strong case to be made, as it was in the debates on the 2011 Act, that the most effective sanction for wrong behaviour is found in transparency, particularly through to the ballot box. We need to bear that in mind when we consider what the Standards Board regime, which we are moving away from, was at risk of becoming.

Every council should aim to have a simple process that ensures high standards of conduct from all members without imposing bureaucratic burdens or providing a platform for vexatious and politically motivated complaints that not only waste taxpayers' money but, as the hon. Member for Warrington North (Helen Jones) mentioned, damage the very fabric of both local democracy and democracy generally. That was the case with the old regime. As a councillor for a decade or so, I saw that regime develop. Since coming to the House and taking my current office, I have found it worrying that, despite the change in regime, monitoring officers are expanding and developing as an industry, and changing the regime seems only to have brought that industry further in-house, rather than getting rid of it.

The essence of the new regime is that, within a simple broad framework, the design of a council's standards arrangements is put into its members' hands. I stress that there is no detailed central prescription about conduct. Given what is happening, there is a temptation for us to start getting involved centrally, but I am wary of doing that because it would be a move away from local accountability. It is for individual councils to decide how best to promote and maintain high standards of conduct.

I will have a look the case and come back to the hon. Lady, but my instinctive response to the councillor who refused to sign a code of conduct is that if the council has adopted the code of conduct, it is, de facto, the council's code of conduct. I am not sure why it is necessary for every member to sign the code of conduct for it to take force. It is the council's code of conduct.

There is no central prescription for the process a council might follow. Beyond certain clear, basic, national rules—for example, that certain pecuniary interests must be disclosed, which I will return to, because I have seen far too many farcical cases of the type raised today—it is for each council to decide its own arrangements, to decide its code of conduct, to decide how to deal with allegations that that code has been breached and to decide how personal interests should be handled. That approach puts members in the driving seat and recognises the commitment of members across local government to serving their communities, to acting consistently in the interests of those they represent and to ensuring local taxpayers' money is well spent.

The new regime recognises the central importance and value of members' roles, which must be a priority, and their knowing what is right for their community and authority. Rightly, under the regime members can take ownership of all their council's standards arrangements and be satisfied that the arrangements are proportionate and appropriate to the circumstances of their authority.

The first six months of the new arrangements have seen councils and their members take a wide range of approaches in responding to the opportunities provided by our new standards regime. The Government have taken a number of steps to help members make the most of those opportunities. To assist councils, in April 2012 my Department circulated an illustrative text of a simple and straightforward code of conduct, as envisaged by the new regime. In June, my hon. Friend the Member for Bromley and Chislehurst wrote to local authorities about simple arrangements for handling misconduct allegations. We followed that in August with a plain English guide to openness and transparency on personal interests.

All those measures graphically illustrate how simple and straightforward, yet wholly effective, standards arrangements can be adopted by councils under our new regime. It is therefore disappointing and, to an extent, worrying to hear that some local authorities have developed both a code and model arrangements for handling misconduct complaints that appear to be essentially a continuation at local level of the old Standards Board regime, and in some cases go further than the old regime. I have heard about too many cases of that in the past few months.

We have heard examples today, and I will respond to a few specific points. My right hon. Friend the Member for Hitchin and Harpenden (Mr Lilley) described a situation that simply should not be happening. The Localism Act makes it clear that a member can go to meetings, and even campaign on an issue, and still take part in the formal decision-taking process, provided they approach that decision with an open mind, as I am sure members do. There is no basis in law for a monitoring officer to give the type of advice about which we have heard.

Richard Drax: My hon. Friend is making an excellent speech. He says that a councillor may campaign, as long as he or she maintains a neutral state of mind, but if someone is campaigning, they are clearly campaigning either for or against something. For clarification, is the Minister saying that councillors can campaign for something? If councillors state that they are for or against something at a council meeting, they might be accused of not having a clear mind. Does he follow my argument? I may have misunderstood him.

Brandon Lewis: Bear in mind that that is a decision for the individual member, as it is when we declare an interest in the House. Councillors must decide whether, at the point of a decision, they have an open mind, having heard all the evidence. If someone has been campaigning heavily against something, they may come to a meeting, hear all the evidence both for and against and then make a judgment about whether they have an open mind on the evidence. That is a matter for them. The key point is that the advice being given to councillors that they cannot do that is wrong. They can do it and, actually, that is how we represent our residents. That was one of the problems with the old regime.

On the point raised by my hon. Friend the Member for Bromley and Chislehurst, since 1 July 2012, when the new regime came into force, councils have had no power to suspend a member—absolutely none. A member convicted by a court for failing to disclose a disclosable pecuniary interest may be disqualified for up to five years by the court in its sentence. In addition, the law remains that any person sentenced to three months or more in prison is disqualified from holding the office of councillor for five years.

Robert Neill: I am grateful for the Minister's clarification. Were there to be any growth in litigation based on an erroneous interpretation of the transitional provisions, would he consider what steps the Department and the Government might take to assist the courts in ensuring that a tribunal has access to the correct interpretation before coming to a decision?

Brandon Lewis: I will address the transitional arrangements in a moment, but, yes, we do have to consider that.

The advice in the Wiltshire case makes little sense. The advice refers to a pecuniary interest in any matter, but it focuses on the word "any," which is completely the wrong end of the stick, to use a colloquial phrase. The advice fails to define a disclosable pecuniary interest, which is the key point. The simple fact is that one cannot identify a disclosable pecuniary interest that relates to the setting of council tax. A beneficial interest in land is probably the nearest to that, but that interest is clearly not materially affected by the setting of council tax.

I have learned something today, and I am hugely impressed: I have never before heard of an "ethical governance officer," which is a fantastic new title. I am sure the title will be cropping up across the country, no doubt with people asking for pay rises. One of the things of which I have seen far too much, particularly in parish councils, is organisations advising that, in setting precepts, all members have to declare a pecuniary interest, which implies that every councillor has such an interest, be they district councillors, county councillors or unitary councillors. Indeed, it could be argued that that goes all the way to us when we set the Budget. That is farcical. That is not what the guidance sets out. We must make it clear to parish councillors that that is bad advice. It is wrong. That was not the intention.

Another example I have heard is how councils feel the need, under the transitional arrangements, to continue to investigate a complaint under the old regime, whatever its merits. That is absolutely not what the transitional arrangements require. Briefly, if a council considers a complaint unworthy of investigation and the resources that that would entail, it can bin the complaint. I stress again that that is a decision for the council—the members. Neither the monitoring officer nor any other officer has the power to make a decision and force or tell councillors to do something. The decision is in the hands of the democratically elected councillors.

Why is all this happening? Why is there an attraction to continue a Standards Board-type regime—a regime that was widely loathed in local government and ill-served citizens, taxpayers and councillors? As I hope I have stressed clearly, our new regime puts members firmly in the driving seat when it

comes to deciding what a council's standards arrangements should be. They are for local councils to decide. In that role, it is right that members look to their officers for advice, as that is what officers are for, but I have to say that much of the advice being given to members is far from satisfactory. There are some very good monitoring officers out there, but far too much poor advice is being given, leading members to feel that they are being bullied by officers.

What I have seen often shows that, for whatever reason, officers have simply failed to grasp what the reform is about. It is about having arrangements that maintain high standards while avoiding bureaucratic burdens and doing away with all the petty, vexatious complaints that bedevilled the operation of the old regime. Whether because of excessive caution, bureaucrats' love of bureaucracy for its own sake, or a misplaced belief that they and not members should be in the driving seat on standards, officers often advise that something more or less akin to the old Standards Board regime should be continued.

One of the most worrying examples is the Public Law Partnership that provides legal advice to a number of councils, including Essex county council and, I believe, Brentwood borough council, where I was once a member. The partnership has prepared a model code and model arrangements for handling misconduct complaints that seem essentially to be a form of the old Standards Board regime. I see no need for a local authority to adopt a code of conduct based on such a model, or to put in place complaint-handling arrangements based upon the Standards Board regime. I see no need for a heavy, bureaucratic, gold-plated approach that has no place in the new localist standards arrangements, which should be driven by and for members.

I send a clear message to council leaders and members that where they receive such advice, they should simply tell their officers to think again. They must challenge their officers to get it right. They should tell the officers that what they are saying is wholly out of step with the new regime and its aims as approved by Parliament, and instruct them to come forward with something different—something that is proportionate and that meets the needs of members under the new regime.

I know that members are trying to do the right thing and want to make the right decisions, and that the officers giving advice sound well informed and very much in control. It is easy for members to believe, "We must do this." I hope that today I have sent a clear message to councillors that the power is in their hands; they should exercise it and challenge their officers to come up with a light-touch scheme and approach. I know that leaders and members have the strength and capacity to do that. They should do it now, if they have not done so already. They should get on with it, using the comments made by all Members in this debate, including me, to challenge their officers. My message to monitoring officers and others who give that advice is to be professional and proportionate and to cut out the gold-plating. Let us see some common sense.

I have heard of law firms offering advice—at a price rather than pro bono, I imagine—on the standards regime and how to operate it. It is, of course, for councils to decide what advice they need. Again, I suggest that members should consider carefully whether they need outside, paid legal advice when they have their own officers. I find it hard to envisage circumstances in which seeking such advice can be genuinely justified. The new standards regime is about empowering councillors to deliver high standards of conduct; it is not about creating a new legal industry, whatever attractions that might have for some. My message to council members is at the very least to consider matters very carefully before deciding that it is necessary to involve a legal firm in the conduct of their council's standards arrangements.

Monitoring officers are there to provide professional advice, not to decide what is to happen or judge whether a member has a disclosable pecuniary interest. I hope that I have made that clear. It is the responsibility of the member concerned to make that judgment. Members need to have confidence in the expertise, professionalism and independence of their officers and to trust that they do not have an agenda or aim that might put their advice into a particular context. Again, I encourage members to challenge their officers appropriately and robustly.

The public expect high standards of conduct from local authority members, and the vast majority of local authority members conduct themselves in an entirely appropriate manner. Across our country, they work fantastically hard for their communities. There is simply no point in a local authority

needlessly imposing a burden of bureaucracy on itself. Councils now have the opportunity to free themselves of the Standards Board regime and make a fresh start free of complicated codes of conduct and resource-intensive arrangements for complaint handling. This opportunity is too important to miss, and I hope that they will take advantage of it, guided particularly by the comments made in this debate. I congratulate my hon. Friend the Member for Bromley and Chislehurst again on securing the debate, which is welcome and, I hope, helpful for local authorities and councillors across this country.

Mr Philip Hollobone (in the Chair): I thank all Members who have taken part in this most interesting debate, and I congratulate Mr Neill on securing it. I am afraid that we will have to contain our anticipation of hearing Mr Bellingham until the Minister arrives at 4 o'clock.