

*Standards in
Public Life*

Misuse of Public Office

A New Offence?

A Consultation Paper from The Nolan Committee

on this site.

Summary of the Nolan Committee's First Report on Standards in Public Life

At the request of the Prime Minister, the Nolan Committee has spent six months inquiring into standards in public life. We have concentrated on Members of Parliament, Ministers and Civil Servants, executive Quango and NHS bodies.

We cannot say conclusively that standards of behaviour in public life have declined. We can say that conduct in public life has been more rigorously scrutinised than it was in the past, that the standards which the public demands remain high, and that the majority of people in public life meet those high standards. But there are weaknesses in the procedures for maintaining and enforcing those standards. As a result people in public life are not always as clear as they should be about where the boundaries of acceptable conduct lie. This we regard as the principal reason for public disquiet. It calls for urgent remedial action. This leaflet summarises the Committee's unanimous conclusions and lists its recommendations.

The Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations which might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.

General recommendations

Some of our conclusions have general application across the entire public service:

Principles of public life

The general principles of conduct which underpin public life need to be restated. We have done this in the seven principles of

Codes of Conduct

All public bodies should draw up Codes of Conduct incorporating these principles.

Independent Scrutiny

Internal systems for maintaining standards should be supported by independent scrutiny.

Education

More needs to be done to promote and reinforce standards of conduct in public bodies, in particular through guidance and training, including induction training.

Members of Parliament

A fall in public confidence in the financial probity of MPs has coincided with an increase in the number of MPs holding paid consultancies which relate to their Parliamentary role. Some 30% of backbench MPs now hold such consultancies.

The House of Commons would be less effective if all MPs were full-time professional politicians, and MPs should not be prevented from having outside employment.

It reduces the authority of Parliament if MPs sell their services to firms engaged in lobbying on behalf of clients. This should

Other Parliamentary consultancies and the fact that some MPs have more than one are also a cause for concern. It is impossible to be certain that MPs with such consultancies never allow their financial interests to affect their actions in Parliament, yet this would be improper.

Guidance associated with the Register of Members' Interests has led to some confusion among MPs as to what conduct is acceptable. The long-established law of Parliament in this area should be reaffirmed.

Full disclosure of consultancy agreements and payments, and of trade union sponsorship agreements and payments, should be introduced immediately. Over the next year Parliament should review the merits of allowing MPs to hold consultancies, taking into account the wider implications of greater restrictions.

The Register of Interests should be more informative. The rules on declaring interests, and on avoiding conflicts of interest, should be set out in more detail. A Code of Conduct for MPs should be drawn up. We have set out a draft. The Code should be restated

of each new Parliament. More guidance for MPs, including induction sessions, should be available.

The public needs to know that the rules of conduct governing MPs' financial interests are being firmly and fairly enforced. There have been calls for these rules to be put into statute law and enforced by the courts. We believe that the House of Commons should be responsible for enforcing its own rules, but that better arrangements are needed.

By analogy with the Comptroller and Auditor General, the House should appoint as Parliamentary Commissioner for Standards a person of independent standing who will take over responsibility for maintaining the Register of Members' Interests; for advising MPs on matters of conduct; for advising on the Code of Conduct; and for investigating allegations of misconduct. The Commissioner's conclusions on such matters would be published.

When the Commissioner recommends further action, there should be a hearing by a sub-committee of the Committee of Privileges comprising up to seven senior MPs, normally sitting in public, and able to recommend penalties when appropriate. MPs who are heard should be entitled to be accompanied by advisers.

Ministers and Civil Servants

Very high standards of conduct are rightly expected from Ministers and civil servants. While there is public disquiet, this focuses on fairly narrow issues.

A Code of Conduct for civil servants has recently been announced. The existing guidance for Ministers is sound but needs to be brought together into a clear set of principles.

The public interest requires that allegations of ministerial misconduct be promptly investigated. Normally this is a matter for the relevant Minister. Who should investigate, and whether to publish a report, will vary from case to case, but in such cases civil servants should not be drawn into the party debate and their advice should remain confidential.

There has been much concern over Ministers who, on leaving office take positions in companies with which they have had dealings. For two years after leaving office senior civil servants have to seek clearance from an independent advisory committee before joining private companies. The same need to protect the public interest arises with Ministers and special advisers, who should be subject to a similar clearance system.

For both Ministers and civil servants the system should be made more open to public scrutiny than at present.

There is insufficient monitoring of the effectiveness of similar arrangements for more junior civil servants, and these should be regularly reviewed.

Very large changes in the management and structure of the civil service have taken place. Greater delegation and diversity mean that more positive action has to be taken to reduce the risk of impropriety. In particular, political interference in the pay and promotion of individuals must be avoided.

While the new independent appeal system for civil servants is welcome, better arrangements within Departments for the confidential investigation of staff concerns on propriety are needed.

More needs to be done to ensure that all civil servants remain aware of the standards of conduct required in the public sector.

The rules on acceptance of gifts and hospitality for both Ministers and civil servants are sufficiently strict, and need not be changed.

Quangos

(Executive NDPBs and NHS Bodies)

Executive Non-Departmental Public Bodies (NDPBs) and National Health Service bodies are public bodies with executive powers.

whose Boards are appointed by Ministers. They have almost 9000 Board Members and spend some 40bn a year.

There is much public concern about appointments to Quango Boards, and a widespread belief that these are not always made on merit. The Government has committed itself publicly to making all appointments on merit.

While individual posts should always be filled purely on merit, it is important that the overall composition of boards should reflect an appropriate mix of relevant skills and background. This range should be clearly and publicly set out in job specifications.

Ministers should continue to make board appointments, but an independent Public Appointments Commissioner should be appointed to regulate, monitor and report on the public appointments process.

The Government is already taking steps to develop best practice and to ensure that the widest range of candidates is secured. The Commissioner should recommend best practice and Departments should have to justify any departures from it.

Formal and impartial assessment of candidates is essential. The advisory panels being introduced in the NHS should become permanent and they should all include an independent element. All candidates whom Ministers consider for all appointments should have been approved as suitable by an advisory panel.

Following recent scandals, much has been done to improve and standardise arrangements to secure high standards of conduct in NDPBs. This process needs to continue. All NDPBs and NHS bodies should have codes of conduct, in line with the principle that codes of conduct apply to all public bodies, for board members and staff.

There remain differences in the legal framework governing standards of conduct in NDPBs, NHS bodies and local authorities. The Government needs to review this area and consider whether greater consistency can be achieved.

Further steps are needed to safeguard propriety both internally and externally. Internally, the Accounting Officer's responsibility for propriety as well as financial matters needs to be emphasised, and better confidential avenues are needed for investigation of concerns about propriety.

Externally, the role of auditors in propriety matters needs to be emphasised. Audit arrangements should be reviewed to ensure that best practice applies to all bodies.

Recommendations

We set out below our specific recommendations.

More details on each are in the relevant chapter of our report.

We believe it would be helpful to those to whom we have addressed the report if we gave some broad indication of the timescale within which we consider that recommendations could be implemented. We therefore place our recommendations into one of three categories:

- A** those recommendations which we believe could be implemented with the minimum of delay
- B** those recommendations which could in our view be implemented—or on which we would expect to see significant progress towards implementation—by the end of this year
- C** recommendations which we recognise will take longer to implement, but on which we wish to re-examine progress in the latter part of next year.

Members of Parliament

1. Members of Parliament should remain free to have paid employment unrelated to their role as MPs. [A]
2. The House of Commons should restate the 1947 resolution which places an absolute bar on Members entering into contracts with the House.

agreements which in any way restrict their freedom to act and speak as they wish, or which require them to act in Parliament representatives of outside bodies. [A]

3. The House should prohibit Members from entering into any agreements in connection with their role as Parliamentarians to services for or on behalf of organisations which provide paid Parliamentary services to multiple clients or from maintaining a or active connections with firms, or parts of larger firms, which provide such Parliamentary services. [B]

4. The House should set in hand without delay a broader consideration of the merits of Parliamentary consultancies generally account of the financial and political funding implications of change. [A]

5. The House should:

require agreements and remuneration relating to Parliamentary services to be disclosed; [B] expand the guidance on conflicts of interest; [B]

introduce a new Code of Conduct for Members; [B]

appoint a Parliamentary Commissioner for Standards; [B]

establish a new procedure for investigating and adjudicating on complaints in this area about Members. [B]

6. On disclosure of interests we recommend:

the Register should continue broadly in its present form, and should be published annually. [B]

However the detailed entry requirements should be improved to give a clearer description of the nature and scope of the interest declared;

updating of the Register should be immediate. The current updated version should be made more widely available electronically; [B]

from the beginning of the 1995/96 session (expected in November) Members should be required to deposit in full with the Register any contracts relating to the provision of services in their capacity as Members, and such contracts should be available for public inspection; [B]

from the same time, Members should be required to declare in the Register their annual remuneration, or estimated annual remuneration, in respect of such agreements. It would be acceptable if this were done in bands: eg under 1,000; 1,000-5,000; 5,000-10,000; then in 5,000 bands. An estimate of the monetary value of benefits in kind, including support services also be made; [B]

Members should be reminded more frequently of their obligations to Register and disclose interests, and that Register should not remove the need for declaration and better guidance should be given, especially on first arrival in the House. [B]

7. Members should be advised in their own interests that all employment agreements which do not have to be deposited should be supported by an exchange of letters, which make it clear that no activities relating to Parliament are involved. [B]

8. The rules and guidance on avoiding conflict of interest should be expanded to cover the whole range of business pertaining to Parliament, and particular attention should be paid to Standing Committees. [B]

9. The House should draw up a Code of Conduct setting out the broad principles which should guide the conduct of Members. The Code should be restated in every new Parliament. [B]

10. The Government should now take steps to clarify the law relating to the bribery of or the receipt of a bribe by a Member of Parliament. [C]

11. On procedure we recommend:

the House should appoint a person of independent standing, who should have a degree of tenure and not be a career member of the House of Commons staff, as Parliamentary Commissioner for Standards; [B]

the Commissioner should have the same ability to make findings and conclusions public as is enjoyed by the Compt Auditor General and the Parliamentary Commissioner for Administration; [B]

the Commissioner should have independent discretion to decide whether or not a complaint merits investigation or an investigation; [B]

the Commissioner should be able to send for persons, papers and records, and will therefore need to be supported by authority of a Select Committee with the necessary powers; [B]

we consider that a sub-committee of the Committee of Privileges, consisting of up to seven very senior Members, would be the best body to take forward individual cases recommended by the Commissioner for further consideration; we recommend that such a sub-committee should be established; [B]

in view of the fact that there would be a prima facie case to investigate, we recommend that hearings of the proposed committee should normally be in public. We also recommend that the sub-committee should be able to call on the advice of specialist advisers and that a Member who so wishes should be able to be accompanied by advisers before the sub-committee; [B]

the sub-committee should be given discretion to enable an adviser to act as the Member's representative at hearings; [B]

as the sub-committee would report to the full Privileges Committee this would have the practical effect of giving the right of appeal to that Committee. Only the most serious cases should need to be considered by the whole House. [B]

The Executive: Ministers and Civil Servants

12. The first paragraph of Questions of Procedure for Ministers (QPM) should be amended to say: 'It will be for individual Ministers to judge how best to act in order to uphold the highest standards. It will be for the Prime Minister to determine whether or not to do so in any particular circumstance.' [A]

13. The Prime Minister should put in hand the production of a document drawing out from QPM the ethical principles and rules it contains to form a free-standing code of conduct or a separate section within a new QPM. If QPM is to remain the home for guidance, we recommend that it is retitled 'Conduct and Procedure for Ministers' to reflect its scope. [A/B]

14. Careful consideration should be given to ensuring that the most appropriate means is used for the investigation of cases of impropriety affecting Ministers. Other than in exceptional circumstances, the general rule that advice from civil servants to Ministers should not be made public should apply in these cases. [A]

15. A system similar to the civil service business appointment rules should apply to Ministers. The system should operate on an advisory basis, and it should be administered by the existing Advisory Committee on Business Appointments. [A]

16. In parallel with the civil service arrangements for permanent secretaries, an automatic waiting period of three months should apply to former Cabinet Ministers, but not to other Ministers or Whips. In cases where a further waiting period is recommended, the maximum waiting period should be set at two years from the date of leaving office. [A]

17. The advisory committee should be able to advise an applicant, whether a civil servant or a former Minister, that they feel their application is not appropriate, and to make public that advice if it is not taken. [A]

18. Former Ministers, having received the advice of the advisory committee, should have the right of appeal to the Prime Minister, who would be able to reduce any waiting period or relax any conditions if the appeal were well-founded. [A]

19. The system should be as open as possible, while protecting the personal privacy of Ministers. [A]

20. The Government should monitor the workload of the advisory committee under the new arrangements and put in place contingency arrangements for its staffing to be augmented to deal with the aftermath of any change of administration. [B]

21. Departments, as well as maintaining records of gifts, should maintain records of hospitality accepted by Ministers in their official capacity and should make these records available if asked to do so. [A]

22. The new performance pay arrangements for the senior civil service should be structured so as not to undermine political i [A]
23. The draft civil service code should be revised to cover circumstances in which a civil servant, while not personally involv aware of wrongdoing or maladministration taking place. [A]
24. The operation of the appeals system under the Code should be disseminated as openly as possible, and the Commissioner report all successful appeals to Parliament. [B]
25. Departments and agencies should nominate one or more officials entrusted with the duty of investigating staff concerns re confidentially. [A]
26. The new civil service code should be introduced with immediate effect, without waiting for legislation. [A]
27. The Cabinet Office should continue to survey and disseminate best practice on maintaining standards of conduct to ensur principles of conduct are being properly observed.[A]
28. There should be regular surveys in departments and agencies of the knowledge and understanding staff have of ethical sta which apply to them; where such surveys indicate problem areas, guidance should be reinforced and disseminated appropriat particularly by way of additional training. [A]
29. The Advisory Committee on Business Appointments should, when an appointment has been taken up, give the reasons fo decision in that particular case. [A]
30. The operation, observance and objectives of the civil service business appointment rules should be reviewed. [B]
31. Special advisers should be subject to the business appointment rules. [A]
32. A central or local record of invitations and offers of hospitality accepted should be kept in all departments and agencies. 7 should be clear rules specifying the circumstances in which staff should seek management advice about the advisability of ac invitations and offers of hospitality. [A]
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Quangos

(Executive Non-Departmental Public Bodies and National Health Service Bodies)

Appointments

33. The ultimate responsibility for appointments should remain with Ministers. [A]
34. All public appointments should be governed by the overriding principle of appointment on merit. [A]
35. Selection on merit should take account of the need to appoint boards which include a balance of skills and backgrounds. 5 on which members are appointed and how they are expected to fulfil their role should be explicit. The range of skills and bac which are sought should be clearly specified. [A]
36. All appointments to executive NDPBs or NHS bodies should be made after advice from a panel or committee which incl independent element. [C]
37. Each panel or committee should have at least one independent member and independent members should normally accou least a third of membership. [C]
38. A new independent Commissioner for Public Appointments should be appointed, who may be one of the Civil Service Commissioners. [B]
39. The Public Appointments Commissioner should monitor, regulate and approve departmental appointments procedures. [C]
40. The Public Appointments Commissioner should publish an annual report on the operation of the public appointments sys

41. The Public Appointments Unit should be taken out of the Cabinet Office and placed under the control of the Public Appointments Commissioner. [B]
42. All Secretaries of State should report annually on the public appointments made by their departments. [B]
43. Candidates for appointment should be required to declare any significant political activity (including office-holding, public office and candidature for election) which they have undertaken in the last five years. [B]
44. The Public Appointments Commissioner should draw up a code of practice for public appointments procedures. Reasons for departures from the code on grounds of 'proportionality' should be documented and capable of review. [C]
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Propriety

45. A review should be undertaken by the Government with a view to producing a more consistent legal framework governing public appointments and accountability in public bodies, including executive NDPBs, NHS bodies and local government. This should involve all relevant departments and be co-ordinated by the Cabinet Office and the Treasury. [C]
46. The adoption of a code of conduct for board members should be made mandatory for each executive NDPB and NHS body. [B]
47. It should be mandatory for the board of each executive NDPB and NHS body to adopt a code of conduct for their staff. [B]
48. Board members and staff of all Executive NDPBs and NHS bodies should be required on appointment to undertake to uphold and abide by the relevant code, and compliance should be a condition of appointment. [B]
49. Sponsor departments should develop clear disciplinary procedures for board members of executive NDPBs and NHS bodies and appropriate penalties for failing to observe codes of conduct. [C]
50. The role of NDPB and NHS accounting officers should be redefined to emphasise their formal responsibility for all aspects of propriety. [B]
51. The Audit Commission should be authorised to publish public interest reports on NHS bodies at its own discretion. [B]
52. The Treasury should review the arrangements for external audit of public bodies, with a view to applying the best practice. [C]
53. Each executive NDPB and NHS body that has not already done so should nominate an official or Board Member entrusted with the duty of investigating staff concerns about propriety raised confidentially. Staff should be able to make complaints without going through the normal management structure, and should be guaranteed anonymity. If they remain unsatisfied, staff should also have a clear route for raising concerns about issues of propriety with the sponsor department. [B]
54. Executive NDPBs, supported by their sponsor departments, should:
- develop their own codes of openness, building on the government code and developing good practice on the lines recommended in this report; [B]
 - ensure that the public are aware of the provisions of their codes; [B]
- sponsor departments should:
- encourage executive bodies to follow best practice and improve consistency between similar bodies by working to the highest standards of all up to those of the best; [B]
- the Cabinet Office should:
- produce and periodically update guidance on good practice for openness in executive NDPBs and NHS bodies. [B]
55. New board members should on appointment make a commitment to undertake induction training which should include awareness of public sector values, and standards of probity and accountability. [B]

Copies of the First Report of the Committee on Standards in Public Life are available from Stationery Office Bookshop and all good booksellers.

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