



House of Commons
Public Administration Select
Committee

**Ethics and Standards:
The Regulation of
Conduct in Public Life:
Government Response
to the Committee's
Fourth Report of
Session 2006–07**

**First Special Report of Session
2007–08**

*Ordered by The House of Commons
to be printed 15 November 2007*

HC 88
Published on 21 November 2007
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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The Committee is one of the select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 146. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at <http://www.parliament.uk/pasc>.

Committee staff

The current staff of the Committee are Steven Mark (Clerk), James Gerard (Second Clerk), Louise Glen (Committee Assistant), Anne Woolhouse (Secretary) and James Bowman (Senior Office Clerk).

Contacts

All correspondence should be addressed to the Clerk of the Public Administration Select Committee, Committee Office, First Floor, 7 Millbank, House of Commons, London SW1P 3JA. The telephone number for general enquiries is 020 7219 3284; the Committee's email address is pubadmincom@parliament.uk.

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First Special Report

The Public Administration Select Committee reported to the House on *Ethics and Standards: The Regulation of Conduct in Public Life* in its Fourth Report of Session 2006–07, published 29 April 2007 as HC 121. The Government Response was received on 7 November 2007 and is published below as an Appendix to this Report.

Appendix

The Government is committed to maintaining the highest standards of conduct of those in public life. It welcomes the Committee's review of the regulation of conduct in public life, with a particular focus on bodies set up by Government for this purpose. Like the Committee, the Government wishes to acknowledge that the existing regulators have been invaluable in ensuring scrutiny of those in public life.

The Government also agrees there needs to be further debate about the precise way in which ethical oversight is best arranged, and it looks forward to working with the Committee and the regulatory bodies referred to in this report in taking this work forward. The Government's response to the Committee's specific recommendations is set out below.

A rule based system should never substitute for a culture of high standards, rooted in the traditions of public life and shared by all those who participate in it. (Recommendation 1, Paragraph 36)

Ethical regulation should not be driven by a desire to respond to every allegation that is ventilated. Such a response will lead to precisely the rule-based system which several of our witnesses suggested would lower standards. Moreover, there is a danger that it will perversely undermine the trust it attempts to build, as the public asks why the system requires the addition of even more safeguards. If standards are high, and properly safeguarded, then the hope is that public perception may, eventually, follow. (Recommendation 2, Paragraph 37)

The Government is committed to maintaining high standards of conduct for those in public life. It welcomes the fact that witnesses to the Committee's inquiry "were convinced that public life in the early twenty-first century was cleaner than it had been before". It is also encouraging that international studies of standards in government show that, in general, the United Kingdom ranks highly for its lack of corruption, and for its regulation of public life.

The Government shares the Committee's view that the working of the regulatory system requires adherence not only to a set of rules, but to high ethical standards of behaviour, and that a rule based system should never substitute for a culture of high standards, rooted in the traditions of public life. This approach is reinforced in the new Ministerial Code, published in July 2007, and the Civil Service Code, published in June 2006, which set out the core principles and standards of behaviour expected of Ministers and civil servants in carrying out their duties.

We believe that the primary purpose of the ethical regulatory system is to ensure that standards of public conduct remain high, rather than to seek to promote trust in public life as a whole. Trust is a slippery concept, and will often depend on the general cultural and political environment. (Recommendation 3, Paragraph 40)

The Government shares the Committee's view that the primary purpose of the ethical regulatory system is to ensure that standards of public conduct remain high and that ethical regulation is a component of good government.

The Government believes that the ethical regulators have made an important and valuable contribution to upholding standards and that they have a continuing role in ensuring high standards in public life.

To command public confidence, ethical regulators need to be robustly and conspicuously independent, and the system of regulation needs to be proportionate and coherent. (Recommendation 4, Paragraph 47)

The Government agrees with this conclusion. The Civil Service Commissioners, the Commissioner for Public Appointments, the Advisory Committee on Business Appointments, the Committee on Standards in Public Life, the House of Lords Appointments Commission and the Independent Adviser on Ministerial Interests, announced for the first time in the Governance of Britain Green Paper, are independent of the executive. The independence of these regulators is not in question.

The Government shares the Committee's view that within a range of bodies engaged in ethical audit there is no "one size fits all" solution, and that while the underlying principles of an ethical system should be consistent and uniform, their practical application needs to be proportionate and relevant to the to the unique features of the area in question.

It is unsatisfactory for the ethical regulators created to regulate government to be appointed by government, and funded by government. On the other hand, we have no desire to establish endless committees of the great and the good, lacking any link to the democratic process. Consequently, we believe that the bodies whose core business is the ethical regulation of government should be established by statute, and report to Parliament rather than government. We consider that the arrangements for funding and scrutiny of the Comptroller and Auditor General and the National Audit Office provide a model for those regulators who are accountable to the House. This means that:

- **Funding and operational challenge should be provided by a body independent of government, yet with government representation, like the**

Public Accounts Commission. Separate committees should engage with reports. This would protect both accountability and independence;

- **Appointment should be by Resolution of the House, and the names proposed should be agreed by consultation among the parties. Appointments processes could still follow OCPA principles;**
- **Staffing: the Officers should appoint their own staff, who would not be civil servants (although secondments from the civil service would be possible and often desirable). (Recommendation 5, Paragraph 64)**

We do not recommend the maintenance of the status quo. The plethora of monitoring bodies, and their differing institutional designs, can only increase public confusion. Still more importantly, we believe that it is unacceptable that the bodies charged with monitoring the Executive are directly dependent on that Executive for their funding. (Recommendation 10, Paragraph 99)

We reject the idea of a single body, charged with all the regulatory functions currently dispersed among the various ethical auditors. (Recommendation 11, Paragraph 99)

To sum up, we propose a direction of travel for the ethical regulators which would lead to a collegiate structure. We consider that Parliament itself is best placed to undertake the scrutiny of such a college, and that a new arm's length body—a Public Standards Commission—be created by statute to undertake the sponsoring role of appointing, funding, staffing and auditing the college. The creation of such a Commission would entail bringing the ethical regulators themselves onto a statutory footing. (Recommendation 13, Paragraph 111)

We favour institutional designs which are consistent with our stated principles. This means that we believe the most effective model for ethical audit is likely to be one which encourages co-operation between ethical auditors, and provides robust forms of both independence and accountability. The reform of ethical regulation is likely to be a gradual process, which will allow examination and review of new arrangements. We favour the 'statutory commission' model to undertake, on behalf of both Parliament and government, the sponsoring body functions we have described, thereby leaving Parliament to fulfil its proper constitutional scrutiny and oversight role, and the watchdogs themselves the appropriate balance of independence and accountability to enable them to carry out their work properly. (Recommendation 14, Paragraph 112)

The Government will give further consideration to the issues raised in these recommendations as part of its work to take forward the commitment in the Constitutional Reform Green Paper for legislation for the Civil Service.

We believe that all constitutional watchdogs should, in principle, have power to initiate their own inquiries into matters of specific or general concern. They should generally consult before doing so, as a matter of good practice, but the decision as to whether an inquiry is warranted should remain theirs alone. (Recommendation 6, Paragraph 76)

The Government will consider this recommendation further in relation to work on legislation for the Civil Service. However, it is important to note that it has recently increased the scope for independent investigation of issues arising under the Ministerial Code and Civil Service Code. The Ministerial Code, published in July 2007, sets out arrangements whereby the Prime Minister may refer an allegation about a breach of the Code to the independent adviser on Ministers' interests. The new Civil Service Code, published in June 2006, provides for the Civil Service Commissioners to consider taking a complaint from a civil servant direct without first having to go through internal appeal processes. The Government can, of course, invite any of the 'ethical regulators' to look into particular issues of concern and the ethical regulators can at any point make a request to conduct a specific inquiry.

We recommend that the cost of each Independent Office and the CSPL be clearly indicated in Estimates and Accounts. (Recommendation 7, Paragraph 79)

The Government accepts this recommendation. The Cabinet Office is committed to being open and transparent about its expenditure. In line with this recommendation, future estimates and accounts will indicate the cost of the Independent Offices and Committee on Standards in Public Life. This information is of course also covered in the annual reports of the respective bodies.

The most effective safeguard against concerns that regulators' independence may be influenced by a desire for reappointment is to provide for a reasonably lengthy single non-renewable term. In our view this term should not be more than seven years (nor less than five years). (Recommendation 8, Paragraph 81)

The Government accepts this recommendation. Future appointments of the First Civil Service Commissioner, the Commissioner for Public Appointments, and the Chairs of the Advisory Committee on Business Appointments, the Committee on Standards in Public Life and the House of Lords Appointments Commission will be made for a single non-renewable term. The Government is currently recruiting a new Chair and members for the Committee on Standards in Public Life and has advertised on the basis that the Chair will be appointed for a single, non-renewable term of five years. It has also converted the appointment terms of the First Civil Service Commissioner and the Commissioner for Public Appointments to non-renewable terms of five years.

The Government believes that this approach will further strengthen the independence and integrity of the independent office holders. Consideration is also being given to the suitability of these appointments for pre-appointment scrutiny by Parliament, and the Government will discuss this further with the Liaison Committee and the Commissioner for Public Appointments.

The normal rule should be that chairs and board members of key constitutional watchdogs should only be dismissed following a resolution of both Houses. (Recommendation 9, Paragraph 82)

The Ministerial Code is clear that “Ministers have a duty to ensure that influence over public appointments is not abused for partisan purposes...Public appointments should be made in accordance with the requirements of the law and, where appropriate, the Code of Practice issued by the Commissioner for Public Appointments.”

Public appointees' term of service are set out in their letter of appointment and includes issues relating to conduct. The Government also believes that its agreement—set out above—to appointing future regulators for single, non-renewable terms strengthens the position of the individuals concerned to speak out where necessary with appropriate protection.

We think it inappropriate that any body fulfilling the remit of the CSPL—that of an 'ethical auditor'—should be subsumed into a body consisting of those it may have to examine. (Recommendation 12, Paragraph 104)

The Government accepts this recommendation. Like the Committee, the Government agrees that the Committee on Standards in Public Life occupies a “unique role” as ‘ethical auditor’ and believes that its role and work programme should continue to be reviewed on an ongoing basis. Just as it is right that the Committee on Standards in Public Life is independent of government, so it should be independent of any other body whose work it may have to examine.

This report has described the principles that should underlie ethical regulation and suggested a broad model for institutional reform. There now needs to be further debate about the precise way in which ethical oversight is best arranged. We will take this further in the next few months, and will begin by holding a seminar with the constitutional watchdogs and other interested parties to consider the ways in which our principles might best be put into practice. We produce this report in the expectation that it will generate constructive reactions from Parliament, Government, the watchdogs themselves, those who are subject to their scrutiny, and the public itself. The reform of ethical regulation in British public life should be undertaken openly, consensually, and on the basis of principle. There must be an end to ad hocery. It is time to recognise that machinery for the regulation of conduct in public life is a permanent part of our constitutional arrangements, and needs now to be put on a proper statutory footing (Recommendation 15, Paragraph 113)

The Government is strongly committed to ensuring high standards across public life and is similarly committed to the ethical regulation as a permanent part of our constitutional arrangements. The Government looks forward to the outcome of the Committee's seminars and further debate on this issue.

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2006–07

First Report	The Work of the Committee in 2005–06	HC 258
Second Report	Governing the Future	HC 123 (<i>cm 7154</i>)
Third Report	Politics and Administration: Ministers and Civil Servants	HC 122
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121 (<i>HC 88</i>)
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (<i>HC 922</i>)
Sixth Report	The Business Appointment Rules	HC 651 (<i>HC 1087</i>)
Seventh Report	Machinery of Government Changes	HC 672
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006–07	HC 922 (<i>HC 1048</i>)
Ninth Report	Skills for Government	HC 93 (<i>HC 89</i>)
First Special Report	The Governance of Britain	HC 901

Session 2005–06

First Report	A Debt of Honour	HC 735
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076</i>)
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205</i>)
Fourth Report	Propriety and Honours: Interim Findings	HC 1119
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689 (<i>HC 91, Session 2007–08</i>)
Sixth Report	The Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications	HC 1081
Seventh Report	The Ministerial Code: the case for Independent Investigation	HC 1457 (<i>HC 1088, Session 2006–07</i>)
First Special Report	The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee	HC 690