



House of Commons
Public Administration Select
Committee

Ethics and Standards: Further Report

**With a further Government
Response to the
Committee's Fourth Report
of Session 2006-07**

Third Report of Session 2008–09

*Report and appendix, together with formal
minutes*

*Ordered by the House of Commons
to be printed 16 December 2008*

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 and the Health Service Commissioner for England, 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.

Current membership

Dr Tony Wright MP (*Labour, Cannock Chase*) (*Chairman*)
Mr David Burrowes MP (*Conservative, Enfield Southgate*)
Paul Flynn MP (*Labour, Newport West*)
David Heyes MP (*Labour, Ashton under Lyne*)
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Mr Charles Walker MP (*Conservative, Broxbourne*)
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The powers of the Committee 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), Laura Dance (Second Clerk), Pauline Ngan (Committee Specialist), Louise Glen (Senior Committee Assistant), Lori Verwaerde (Committee Assistant) and Miguel Boo (Committee Support Assistant).

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1 Report

1. This Report follows up our previous work on ethical regulators, which we reported on in our Fourth Report of Session 2006–07, *Ethics and Standards: The Regulation of Conduct in Public Life*.¹ In that Report, we set out the principles we believe should underpin the system of ethical regulation applying to those in public life, and examined the coherence of existing institutional arrangements for such ethical regulation. The Government response to the Report was published on 21 November 2007.² In its response, the Government postponed giving a substantive response to several of our recommendations, saying that it would give further consideration to them as part of its work to bring forward legislation on the civil service.³ The Government has now provided a response to the remaining recommendations, in the form of a letter from Tom Watson MP, Parliamentary Under-Secretary of State at the Cabinet Office, received on 25 November 2008. This is published below as an Appendix.

2. We welcome this further statement of the Government's position on ethical regulation. We are, in particular, pleased to see the Government's continued commitment to establishing a statutory Civil Service Commission, as part of wider legislation on the civil service. As we have said elsewhere, this would help to ensure that the Civil Service Commission is sufficiently independent yet accountable to Parliament.⁴ **We were therefore disappointed that no firm commitment was made in this year's Queen's Speech to bring forward a bill putting the civil service on a statutory footing. We urge the Government to make legislative time available for this as soon as possible.** Recent events reinforce the urgent need to enshrine key civil service values such as political impartiality in legislation.

3. We also remain concerned about the arrangements for securing the independence of ethical regulators more generally. The issue at stake here is not about the current operation of these bodies. We agree with the Government that all of the ethical watchdogs perform a valuable public service in ensuring that high ethical standards in public life are upheld. They have demonstrated their ability to act robustly and autonomously in practice. There remains a key point of principle, however, that the Government has not addressed in either of its responses to our Report: the fundamental importance of making sure that ethical regulators are independent of the Executive, given their crucial function of scrutinising the Executive's actions.

1 Public Administration Select Committee, Fourth Report of Session 2006–07, *Ethics and Standards: The regulation of Conduct in Public Life*, HC 121

2 Public Administration Select Committee, First Special Report of Session 2007–08, *Ethics and Standards: The regulation of Conduct in Public Life: Government Response to the Committee's Fourth Report of Session 2006–07*, HC 88

3 As above, Appendix, p 3

4 Public Administration Select Committee, Tenth Report of Session 2007–08, *Constitutional Renewal: Draft Bill and White Paper*, HC 499

4. The Government stated in its original response to our Report that the independence of the ethical regulators “is not in question”.⁵ We disagree. Under existing arrangements, the ethical regulators are appointed by government and funded by government. Government could reduce their funding or abolish them if it wished to do so. This is not what we had in mind when we concluded that the ethical regulators needed to be “robustly and conspicuously independent”.⁶ We made this abundantly clear in our original Report:

It is unsatisfactory for the ethical regulators created to regulate government to be appointed by government, and funded by government...we believe that it is unacceptable that the bodies charged with monitoring the Executive are directly dependent on that Executive for their funding.⁷

5. It may be that the Government disagrees with us; but it has not made clear if this is the case. The Government has in fact taken steps in the direction of putting two of the regulators on a statutory footing: the Civil Service Commission, as mentioned above, and the House of Lords Appointments Commission.⁸ While we regard these developments as positive, they suggest a piecemeal and potentially inconsistent approach in light of the further response we have received from the Government, which indicates that there are no concrete plans to change the basis or accountability of other ethical regulators (although the possibility of future reform has not been ruled out).

6. We regret that this point about independence, central to the argument in our Report on *Ethics and Standards*, has not been directly addressed in either of the responses we have received in the 20 months since the Report was published. **We call on the Government to address this point of principle: that it is unacceptable and incompatible with genuine independence for the ethical regulators, which were created to regulate government, to be appointed by government and funded by government. We therefore urge the Government to adopt a coherent and principle-based approach to ethical regulation that is designed to secure the independence of ethical regulators from the Executive.**

5 Public Administration Select Committee, First Special Report of Session 2007-08, *Ethics and Standards: The regulation of Conduct in Public Life: Government Response to the Committee's Fourth Report of Session 2006-07*, HC 88, Appendix, p 2

6 Public Administration Select Committee, Fourth Report of Session 2006-07, *Ethics and Standards: The regulation of Conduct in Public Life*, HC 121, para 47

7 As above, para 64

8 Government White Paper, *An Elected Second Chamber—Further reform of the House of Lords*, July 2008, Cm 7438, p 46

Appendix: Further Government Response

PASC's FOURTH REPORT OF SESSION 2006–07: ETHICS AND STANDARDS: THE REGULATION OF CONDUCT IN PUBLIC LIFE

In its response to the above report, the Government undertook to give further consideration to the issues raised in a number of the Committee's recommendations as part of its work to take forward the Government's proposals on constitutional renewal. I do apologise for the delay in returning to these outstanding issues. As you know, this work is still on-going, and the Government is currently considering both your report and the report of the Joint Committee on its proposals.

A number of the Committee's recommendations in the report on *Ethics and Standards* (recommendations 5, 10, 11, 13, and 14) related to the proposal that there should be a "direction of travel for the ethical regulators which would lead to a collegiate structure". In March this year, the Government published its proposals for legislation for the Civil Service as part of a draft Constitutional Renewal Bill. These include the establishment of a statutory Civil Service Commission to uphold the principle of selection on merit on the basis of fair and open competition. The Government is not ruling out the possibility of further reform in the future involving arrangements for the other ethical regulators. However, the priority in the context of constitutional renewal proposals has been to focus on the arrangements for the Civil Service Commissioners.

In its *Ethics and Standards* report, the Committee also specifically recommended (recommendation 6) that "all the constitutional watchdogs should, in principle, have power to initiate their own inquiries into matters of specific or general concern". The provisions in the draft Bill covering the Civil Service Commission's proposed powers in this area attracted a good deal of comment. The Government is giving careful consideration to the views that have been expressed, and will address this issue in its response to the Committee and to the Joint Committee.

Separately, the Committee will also wish to note that since the publication of its initial response to the *Ethics and Standards* report, the Government has published the list of posts suitable for pre-appointment hearings (see the Government's response to recommendation 8). This list was published in the Government's response to the Liaison Committee's First Report of Session 2007-08 *Pre-appointment hearings by select committees*. The list was agreed with the Chairs of select committees and draws heavily from recommendations contained in the Committee's Third Report of Session 2007–8 *Parliament and Public appointments: Pre-appointment hearings by select committees*. As a result, the regulators or chairs of those ethical regulators the Committee concentrated on in its report on "*Ethics and Standards*" are on the list of posts suitable for pre-appointment scrutiny. Indeed, the Committee has already held a pre-appointment hearing for one of these—the Chair of the House of Lords Appointments Committee. The Government notes that this hearing went well and that the Committee concluded that the candidate, Lord Jay of Ewelme, had "the professional competence and personal independence required for the post" and supported his subsequent appointment.

This brings to a close the Government's response to the Committee's conclusions and recommendations contained in the Fourth Report of Session 2006–07.

Formal Minutes

Tuesday 16 December 2008

Members present:

Paul Flynn
David Heyes
Kelvin Hopkins

Mr Ian Liddell-Grainger
Mr Gordon Prentice
Mr Charles Walker

In the absence of the Chairman, and notwithstanding the Order of 12 March, Paul Flynn was called to the Chair.

Draft Report (*Ethics and Standards: Further Report*), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 6 read and agreed to.

A paper was appended to the Report.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Thursday 15 January at 9.45 am

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 2008-09

First Report	Lobbying: Access and Influence in Whitehall	HC 36
Second Report	Justice delayed: The Ombudsman's report on <i>Equitable Life</i>	HC 41

Session 2007-08

First Report	Machinery of Government Changes: A follow-up Report	HC 160 (HC 514)
Second Report	Propriety and Peerages	HC 153 (Cm 7374)
Third Report	Parliament and public appointments: Pre-appointment hearings by select committees	HC 152 (HC 515)
Fourth Report	Work of the Committee in 2007	HC 236 (HC 458)
Fifth Report	When Citizens Complain	HC 409 (HC 997)
Sixth Report	User Involvement in Public Services	HC 410 (HC 998)
Seventh Report	Investigating the Conduct of Ministers	HC 381 (HC 1056)
Eighth Report	Machinery of Government Changes: Further Report	HC 514
Ninth Report	Parliamentary Commissions of Inquiry	HC 473 (HC 1060)
Tenth Report	Constitutional Renewal: Draft Bill and White Paper	HC 499
Eleventh Report	Public Services and the Third Sector: Rhetoric and Reality	HC 112 (HC 1209)
Twelfth Report	From Citizen's Charter to Public Service Guarantees: Entitlement to Public Services	HC 411 (HC 1147)
Thirteenth Report	Selection of a new Chair of the House of Lords Appointments Commission	HC 985
Fourteenth Report	Mandarins Unpeeled: Memoirs and Commentary by Former Ministers and Civil Servants	HC 664

Session 2006-07

First Report	The Work of the Committee in 2005-06	HC 258
Second Report	Governing the Future	HC 123 (Cm 7154)
Third Report	Politics and Administration: Ministers and Civil Servants	HC 122 (HC 1057 Session 2007-08)
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121 (HC 88 Session 2007-08)
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (HC 922)
Sixth Report	The Business Appointment Rules	HC 651 (HC 1087)
Seventh Report	Machinery of Government Changes	HC 672 (HC 90 Session 2007-08)
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of	HC 922 (HC 1048)

Session 2006–07		
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 (<i>Cm 1020</i>)
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 (<i>Cm 7374</i>)
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689 (<i>HC 91, Session 2007–08</i>)