

## **INTEGRITY IN PUBLIC LIFE - COMMITTEE INTO STANDARDS OF PUBLIC LIFE (NOLAN COMMITTEE)**

### **A Memorandum by the Government of Britain**

1. The Nolan Committee was set up by the Prime Minister in November 1994 in response to a number of well-publicised scandals in public life, particularly in Parliament, and culminating with two Members of Parliament being accused of accepting payment for tabling Parliamentary Questions (the "cash for questions" scandal). The Committee's terms of reference are: "To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present

Sir Clifford Boulton, GCB

Sir Martin Jacomb

Professor Anthony King, CH, MP

The Rt. Hon. Tom King, CH, MP

The Rt. Hon. Peter Shore, MP

The Rt. Hon. The Lord Thomson of Monifieth, KT, DL

Sir William Utting, CB

Dame Anne Warburton, DCVO, CMG

Diana Warwick

#### **The Committee's First Report**

3. The Committee's first Report was published on 11 May 1995. Among the Report's key recommendations were:

arrangements which might be required to ensure the highest standards of propriety in public life.

For these purposes, public life should include Ministers, civil servants and advisers, Members of Parliament and UK Members of the European Parliament, members and senior officers of all non-departmental public bodies and of national health service bodies, non-ministerial office holders, members and other senior officers of other bodies discharging publicly-funded functions, and elected members and senior officers of local authorities."

2. The Chairman of the Committee is Lord Nolan, a senior judge. Its members are nominees of the Government or of the main political parties. They are:

former Clerk of the House of Commons

Chairman of the British Council

Professor of Government, University of Essex

Member of Parliament for Bridgwater, former Cabinet Minister

Member of Parliament for Bethnal Green and Stepney, former Cabinet Minister

formerly Secretary of State for Commonwealth Affairs and an EC Commissioner. Chairman of the Independent Broadcasting Authority, 1981-1988

Chairman of the National Institute for Social Work

formerly with HM Diplomatic Service, 1957-1985, and President of Lucy Cavendish College, Cambridge, 1985-1994

Chief Executive, Committee of Vice-Chancellors and Principals.

- a Parliamentary Commissioner for Standards to oversee new rules on MPs' interests;
- ex-Ministers to seek clearance for jobs they take on within two years of leaving office;

- a new Public Appointments Commissioner to ensure the highest standards of propriety in appointments to Quangos.

4. The Report made 55 recommendations dealing with MPs, Ministers and Civil Servants, and the big spending Quangos including National Health Service trusts. A full list of the recommendations is at **Annex A**. The Report followed receipt of almost 2,000 written submissions from organisations and members of the public and evidence from over 100 witnesses at public hearings which were held at Westminster Central Hall, London from Tuesday, 17 January to Thursday, 23 February 1995.

5. The response to the Report divided into the dozen or so recommendations which concerned MPs; and the rest. The former were a matter for Parliament to respond to, while the latter were the concern of the executive.

6. The Government response, a White Paper dealing with all the recommendations addressed to Government itself, was issued in July 1995. At the same time, the House of Commons set up an all-Party Select Committee to advise on how the recommendations on MPs could be clarified and implemented. This Committee produced two Reports, which were debated on 19 July and 21 October respectively. Finally, a debate on the Government's White Paper took place on 2 November.

7. Ultimately, the great majority of recommendations in the Report were accepted by Government or Parliament respectively. In particular:

- A Parliamentary Commissioner for Standards (Sir Gordon Downey) was appointed in November 1995.
- New rules on MPs' conduct were introduced at the beginning of the current parliamentary session in November 1995. These include a ban on paid advocacy (meaning that MPs are no longer allowed to initiate parliamentary proceedings which relate specifically and directly to the interests of an outside body from which the MP receives remuneration).
- Business Appointment Guidelines for former Ministers have been published, and arrangements for Ministers to take advice from the Advisory Committee on Business

Appointments were implemented in November 1996.

- A Commissioner for Public Appointments (Sir Len Peach) was appointed on 23 November, and began work the following month. The Commissioner will be issuing Guidance on Public Appointments in April 1996, an initial Report on his work in October 1996, and a full First Annual Report in July 1997.
- A review of the legal framework governing propriety and audit in public bodies began in May 1995. A consultation paper setting out the review's preliminary conclusions is due to issue by early March 1996.

### The Committee's Second Report

8. Having examined Parliament and aspects of central government, the Committee decided that its Second Report should concentrate on standards in organisations providing public services at a local or regional level.

9. Accordingly, the Committee is undertaking a broad brush review of certain aspects of the management of local public spending bodies, including: Higher and Further Education Bodies (including Universities), Grant-maintained Schools, Training and Enterprise Councils (Local Enterprise Companies in Scotland), and Housing Associations.

10. The Committee is examining the arrangements for the appointment of members to Board and Management Committees, the role of Boards and Management Committees in relation to the officers and staff of such bodies, and the safeguards in respect of conflict of interest. By concentrating on these aspects, and by looking at them across a wide range of bodies, the Committee hopes to identify principles of best practice which will be widely applicable.

11. On 31 July 1995 the Committee published an "issues and questions" paper on these matters (a similar consultation paper had been published during the First Enquiry). Copies were sent to a wide range of interested organisations and were available for consultation in most main libraries. The closing date for responses to the paper was 31 October 1995.

12. Public hearings were held in London between 14 November and 13 December 1995, in Cardiff on

24 and 25 January, and in Edinburgh on 30 and 31 January 1996. The Committee aims to complete its work on Local Public Spending Bodies during the Spring, and to issue its Second Report in May 1996.

### **Future Work**

13. Almost as much controversy has been generated by speculation about which issues the Committee might subsequently deal with, as about the work that it has actually done. There have been demands for future reports to cover MPs' pay, the funding of political parties, freemasonry in the public services, and individual cases of alleged corruption in central or local government.

14. In practice, many of these areas are outside the Committee's terms of reference. In particular, the Prime Minister, in setting up the Committee, made it clear that its remit does not extend to investigating individual allegations of misconduct.

15. The Committee's exact programme of future work is uncertain, though Lord Nolan has indicated that this is likely to include studies into aspects of local government and the utility regulators.

16. The Committee will consider other topics for study as its work load permits. During the course of 1996 the Committee will also wish to examine progress on recommendations in the First Report. In particular, the Committee has said that it will review changes in both Houses of Parliament following their first year of operation.

March 1996

## 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 broad 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 would 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 or agreements which in any way restrict their freedom to act and speak as they wish, or which require them to act in Parliament as representatives of outside bodies. [A]
3. The House should prohibit Members from entering into any agreements in connection with their role as Parliamentarians to undertake services for or on behalf of organisations which provide paid Parliamentary services to multiple clients or from maintaining any direct 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, taking 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 avoiding 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]

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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 interests 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, should also be made; [B]
- Members should be reminded more frequently of their obligations to Register and disclose interests, and that Registration does 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 contain terms, or 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; this 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 Comptroller and 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 to initiate an investigation; [B]
- the Commissioner should be able to send for persons, papers and records, and will therefore need to be supported by the 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 sub-committee should normally be in public. We also recommend that the sub-committee should be able to call on the assistance 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 Member a 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 they have done 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 which 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 this 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 alleged 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]

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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 that the 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 of the day, 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 impartiality. [A]
23. The draft civil service code should be revised to cover circumstances in which a civil servant, while not personally involved, is 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 Commissioners should 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 raised 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 ensure that basic principles of conduct are being properly observed. [A]

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28. There should be regular surveys in departments and agencies of the knowledge and understanding staff have of ethical standards which apply to them; where such surveys indicate problem areas, guidance should be reinforced and disseminated appropriately, 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 for its 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. There should be clear rules specifying the circumstances in which staff should seek management advice about the advisability of accepting invitations and offers of hospitality. [A]

## **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. The basis on which members are appointed and how they are expected to fulfil their role should be explicit. The range of skills and background 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 includes an independent element. [C]

37. Each panel or committee should have at least one independent member and independent members should normally account for at 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]

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40. The Public Appointments Commissioner should publish an annual report on the operation of the public appointments system. [C]

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 speaking 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]

### **Propriety**

45. A review should be undertaken by the Government with a view to producing a more consistent legal framework governing propriety 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 with 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]

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52. The Treasury should review the arrangements for external audit of public bodies, with a view to applying the best practices to all. [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 bring the 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]

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