

THE REPORT OF THE TRIENNIAL REVIEW OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

Introduction

1. On Tuesday 18 September 2012 the Minister for the Cabinet Office announced the start of the Triennial Review of the Committee on Standards in Public Life (CSPL). This document is the Report of the Triennial Review. The report is set out as follows: section one (paragraphs 2 to 3) is a summary of findings and recommendations. Section two (paragraphs 4 to 22) is background to the CSPL, the Triennial Review process and how this has been applied to the review of the CSPL. Section three (paragraphs 23 to 51) is stage one of the Triennial Review process. Section four (paragraphs 52 to 57) is stage two of the Triennial Review process. Section five (paragraph 58) is a short conclusion. The Report has the following annexes: Annex A is the Written Ministerial Statement announcing the Review. Annex B is the questions the 'issues and questions' paper posed. Annex C is a list of the substantive written responses the review received and a list of discussions and meetings the review team held with interested parties. Annex D includes further details of the assessment of the corporate governance of the CSPL. Annex E is a list, provided by the CSPL, with information on the background and age on appointment of the committee members.

Section 1: summary of findings and recommendations

2. There is a continuing need for an ethics monitor/reviewer. The CSPL should remain as a non departmental public body - the other models for delivering the role of an ethics monitor/reviewer that I examined as part of this review are not appropriate. But a fresh start is needed to make the committee more effective and to give it greater impact:-

- a. The CSPL should be more strategic - reviewing systems -and should avoid overlapping with the work of sectoral regulators.
- b. The Committee should be bolder in picking topics, looking ahead to emerging problems, rather than reacting to scandals and allegations of ethical abuses which have already emerged.
- c. The Committee - and its members, both former and current - should be cautious, as most have been, about commenting in the media on current scandals, in line with the CSPL's longstanding policy of not investigating specific complaints or alleged abuses.
- d. The Committee should keep a watching brief on broader ethical issues and maintain oversight, bringing together regulators and interested parties. But it should not either comment on the day-to-day work of regulators or see one of its objectives as improving public confidence or trust in public bodies or holders of public office.

- e. The terms of reference of the committee about devolved issues need to be clarified to say that the CSPL will not investigate ethical matters involving the devolved bodies unless asked to do so.
 - f. The remit of the committee needs to be reviewed to define more clearly the scope of the term 'holders of public office' in the light of the changing role of the state and its relations with outside organisations.
 - g. The committee's working methods need to be revised, to sharpen them up, to adjust to changes in the media, and to operate within a reduced budget, as has begun to happen recently. Consequently, the biennial research into public attitudes should cease and public hearings should be reduced sharply and used sparingly.
3. The independence of the Committee needs to be strengthened:-
- a. A greater role for relevant parliamentary committees in the appointment of the chair and members, and in being consulted ahead of the committee's decision on choice of inquiries.
 - b. An overhaul of the process for appointing non-political members to produce greater diversity of age, experience and independence, and a broader basis of selection of political members within Parliament.
 - c. The number of members should be cut from ten to seven, with more added if needed for specific inquiries.
 - d. A commitment by the Cabinet Office to provide a high quality Secretariat.

Section 2: background and process

Background information on the CSPL

4. The CSPL was established in 1994 by the then Prime Minister (John Major) with the following terms of reference:

'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 arrangements which might be required to ensure the highest standards of propriety in public life'¹

5. In 1997 the then Prime Minister (Tony Blair) widened the terms of reference to include the funding of political parties:

'to review issues in relation to the funding of political parties, and to make recommendations as to any changes in the present arrangements'²

¹ HC Deb 25 October 1994 Vol 248 cc757

² Hansard, 12 November 1997, column 899

6. The CSPL is an advisory Non Departmental Public Body (NDPB). Its sponsor Department is the Cabinet Office. It has ten members. The Conservative party, Labour party and the Liberal Democrat party each nominate one member. The remaining seven members (including the Chair) are independent. Its budget for 2011-12 was £638,000. In October 2011 £38,000 was returned, reducing the allocation to £600,000. Further details on expenditure can be found in the Committee's Annual Reports. The Reports also include information on the remuneration of the Committee members.

7. Lord Nolan was the first Chair of the Committee. His successors were: Lord Neill, Sir Nigel Wicks, and Sir Alistair Graham. Sir Christopher Kelly is the current Chairman.

8. The CSPL has published thirteen Reports. These include reports on: Standards in Public Life (1995, their first report), Local Public Spending Bodies (1996, their second report), The Funding of Political Parties in the UK (1998, their fifth report), Standards of Conduct in the House of Commons (2002, their eighth report), Review of the Electoral Commission (2007, their eleventh report) and Political Party Finance (2011, their thirteenth report). The Committee also undertakes, amongst other things, two-yearly research into public attitudes to ethical issues and conduct. Full details of the Committee's work, including all their reports, are available on their website.³

9. The CSPL Inquiry reports are presented to the Prime Minister and through him to Parliament as a published Command Paper. The Committee is free to choose subjects of inquiry, after consultation with the Prime Minister.

10. There was a Quinquennial review of the CSPL in 2000. The final paragraph of the review concluded:

*'In summary, the first five years of the Committee's existence has seen significant developments in standards in public life. Much has been achieved but a certain amount of work remains before the ethical framework can be said to have been comprehensively surveyed. That is why the Committee has begun its study into the rules which govern the conduct of Members of the House of Lords. There is no reason in the immediate future to alter the size of the Committee. In due course there will be periods in which the Committee and its secretariat are not engaged in a study but continue to monitor the ethical environment. This will require willingness on the part of members of the Committee to work flexibly and the arrangements for staffing the secretariat must reflect that flexibility. When studies are undertaken the Committee may wish to consider adopting methods of working which vary according to the subject matter, sometimes using informal ways of gathering evidence in place of public hearings.'*⁴

11. The above paragraphs are a brief outline of some of the key features of the CSPL. They are not meant to be a comprehensive summary of their work or governance. Further helpful background information on the Committee can be found on their website and in their Annual Reports. Two further sources of background

³ <http://www.public-standards.gov.uk/index.html>

⁴ <http://www.public-standards.gov.uk/Library/OurWork/QuinquennialReview.pdf>

information are the 2008 House of Commons Library note on the Committee⁵ and the Committee's memorandum to the Public Administration Select Committee's 2006 Inquiry on *Ethics and Standards: The Regulation and Conduct in Public Life*⁶.

The Triennial Review process

12. Triennial Reviews are a process for reviewing NDPBs. The Cabinet Office produces guidance on the principles and processes of these reviews.⁷ The guidance explains that reviews should be conducted in line with a set of key principles. They should be: proportionate, timely, challenging, inclusive, transparent and represent value for money.

13. The guidance states that Triennial Reviews have two principal aims:

- a. *'to provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and*
- b. *where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.'*

14. The guidance also states Triennial Reviews should be conducted in two distinct stages, to reflect the above two principal aims. Stage one should identify and examine the key functions and the form of the NDPB. Should it be decided that the body should remain as an NDPB, the review moves on to Stage two, which should consider the NDPB's control and governance arrangements.

The process of reviewing the CSPL

15. The Minister for the Cabinet Office announced the Triennial Review of the CSPL on 18 September 2012 (Annex A). I was asked to conduct the review as an independent external reviewer. I am currently Director of the Institute for Government. At my request, I was not paid for my time. The Cabinet Office provided support for the review.

16. I had two important points in mind throughout the process. First, the focus of the review was the role an ethics monitor and reviewer might play in 2012 and over the next few years, and on the CSPL as it is now and as it has developed over the last few years. It was not a comprehensive analysis of the Committee's work since 1994.

17. Second, the key principles outlined in the Cabinet Office guidance on Triennial Reviews (see paragraph 12, above) and, in particular, the need for reviews to be proportionate to the NDPB being reviewed. The CSPL is an advisory body with a Secretariat of just three permanent members and a small, and decreasing, core

⁵ <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-04888.pdf>

⁶ <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmpublicadm/121/121ii.pdf>

⁷ Guidance on Reviews of Non Departmental Public Bodies, June 2011
<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Cabinet-Office-Guidance-on-Reviews-of-Non-Departmental-Public-Bodies.pdf>

budget (from £638,000 in 2010-11 to £452,000 in 2013-14). Given the above, I adopted a 'light touch' approach.

18. The review was principally based on the responses to an issues and questions paper issued on 11 October 2012. The paper was published on the Cabinet Office website⁸. It was shared, in draft, with both the CSPL and the Cabinet Office who provided a number of helpful comments. The review team also wrote to a range of people affected by and with an interest in, the work of the CSPL and brought the paper to their attention and asked for responses. Both the CSPL and the Cabinet Office were consulted on who the review team was proposing to contact. The CSPL suggested a number of additional names, which was helpful. Those consulted included: current and some former members of the CSPL, the leaders of the major political parties (both nationally and in the Devolved Administrations), MPs and Peers (including the Chairs of a number of Parliamentary Committees), academics, regulatory bodies, journalists and think tanks.

19. The issues and questions paper asked for replies by the end of October 2012. This deadline was later extended to 9 November 2012. The review received over twenty five substantive written responses (see Annex C for the list of responses). Some respondents said they had no substantive comments to make. I also had a range of discussions and meetings with interested parties on the review including the questions raised in the issues and questions paper (see Annex C for a list).

20. In advance of finalising this Report I met with the Chair and the Secretary of the CSPL and the Minister for the Cabinet Office to discuss my emerging conclusions. Both provided helpful comments that I considered and, where I thought appropriate, took on board. This Report was also shared, in draft, with both the CSPL and the Cabinet Office to give them an opportunity to correct any factual inaccuracies and obvious errors.

21. The review team has made every effort to consult with interested people and organisations as part of this review, in particular the CSPL and the Cabinet Office (as the sponsor department). The findings and recommendations will not be a surprise to either of the latter. .

22. I am very grateful to the CSPL's Chair, Sir Christopher Kelly, and its Secretary, Dr Hannah White, for their constructive responses to a number of requests I have made for information and for comments. I would also like to thank Bernard Jenkin MP, Chair of the House of Commons Public Administration Select Committee (PASC), for the opportunity to discuss the review with members of his committee. I am particularly grateful to Dr David Hine of Oxford University for advance sight of relevant chapters of a book which Ms Gillian Peele and he are writing on ethical regulation. I would also like to thank Michael Pigott of the Cabinet Office for his assistance in the review, his assiduity and his always shrewd advice.

Section 3: stage one of the Triennial Review

⁸ <http://www.cabinetoffice.gov.uk/sites/default/files/resources/Issues-and-questions-paper.pdf>

23. This section of the Report examines the key functions of the CSPL and whether they are still needed. It then looks at whether these functions are best delivered through the CSPL – as an advisory NDPB.

24. Much has changed since the CSPL was established eighteen years ago. Several regulatory bodies have been created as a result of, and linked to its inquiries. Codes of conduct about standards and detailed rules have been issued across the whole range of public life. Parliamentary Committees, such as the PASC and the Political and Constitutional Reform Committee, have also taken a close interest in such matters. Past abuses have been tackled but others have surfaced, notably MPs' expenses in 2009, prompting a public outcry and further remedial action. It would be naive to believe that such allegations will not appear again from time to time. 'The promotion and maintenance of ethical standards in public life', the objective of the CSPL, is likely to be an endless task. New problems will emerge and attitudes towards ethical standards will evolve over time. All the evidence which I received pointed to a continuing need for an ethics monitor and reviewer. This is a separate question from whether it should be the current CSPL. Kevin Barron MP, Chair of the House of Commons Committee on Standards and Privileges, sums up a common response (his opinion is personal but was given after consulting colleagues on his committee):

'There has been great value in having a body able to look at ethical issues across all aspects of public life. This is not a role which could be taken by individual regulatory bodies, such as the Electoral Commission, whose remit is more specialised. The CSPL has done valuable work. The question then arises whether there is a continuing need for such a standing ethical scrutineer, particularly as individual regulatory bodies have been strengthened. Here the matter is more finely balanced'.

25. What should be the main features of an ethics monitor and reviewer? :-

- a. **Independent**, both from government and Parliament, though accountable to both. Independence is crucial since either, or both, the Government and Parliament may be implicated in allegations of ethical failures. Achieving independence is not straightforward given that someone must control budgets and decide on appointments and staffing.
- b. **Permanent and self-activating**. One-off inquiries are inevitably reactive and often have a limited lasting influence. Permanence offers the opportunity of anticipating emerging problems as well as building on the experience of past inquiries. Any ethics monitor and reviewer must be free to decide the subject of its own inquiries after consulting with both the Government and parliamentary committees, but not requiring their approval.
- c. **Separate from sectoral regulators in organisation and accountability**, though co-operating with them informally to discuss best practice. An ethics monitor and reviewer must be able to assess the performance of regulators from time to time which would be impossible if their roles were blurred.

- d. **Focused on broad principles, systems and frameworks**, and not considering, or commenting upon, specific complaints or alleged abuses. Again, this is vital if the ethics monitor and reviewer is to take a detached view and not be, wrongly, seen as an arbiter on immediate controversies.

26. The key characteristics were well summed-up in the submission by John Lyon, the outgoing Parliamentary Commissioner for Standards:

'the body should be 'strategic. I do not believe that it should get engaged in matters other than those of continuing public and national importance. It should not get embroiled in the detailed rules which underpin standards in any part of the public life. Nor should it be expected to launch inquiries as a direct response to some particular scandal or crisis. It needs to be a body which stands back from the day to day ebb and flow of political and public activity; a body which can examine trends and give advice which has authority and status because it is well researched, well considered, well principled and far seeing. A body of this sort should not, in my view, engage in examination of alleged individual breaches or misdemeanours. It should not engage in the detailed regulation of any part of the public sector'

I share Mr Lyon's views.

27. This analysis clarifies the possible ways forward and rules out various options which have been suggested and which are required to be examined as part of the Triennial Review:-

- a. **Abolition.** While some respondents initially favoured the end of the CSPL in its current form, most accepted that there should be some form of ethics monitor and reviewer. (Abolition was considered, but rejected, in 2007 before the appointment of Sir Christopher Kelly as Chair). Even strong critics of the CSPL accepted that the announcement of abolition could give the appearance of complacency about ethical standards; while when a scandal erupts, as it inevitably would, an ad hoc inquiry would have to be set up, at probably greater cost, as well as delay. Professor Dawn Oliver, Emeritus Professor of Constitutional Law at University College, London, argues that:

'It would be very unfortunate if the CSPL was wound up and then a new area of public concern about standards in public life were to emerge which was not within the remit of any other appropriate body'.

- b. **Moved out of central government.** This would be inappropriate for an advisory body looking at ethical standards across the public sector, with the exception of the biennial surveys of public opinion which could be carried out elsewhere (see paragraph 50 below).
- c. **Brought in house.** Again, this would be inappropriate for a body examining standards within central government and in the rest of the public sector.

- d. **In existence, but dormant until needed.** Lord Butler, Cabinet Secretary at the time the CSPL was created, says his concept at the outset was that the CSPL should be like the Security Commission, which existed from 1964 to 2010 to investigate breaches of security in the public sector, and should be *'a standing committee which should only be activated when issues arose or incidents occurred, which it was useful to refer to the committee and on which it would be helpful to have the committee's advice on how to prevent a recurrence'*. But the late Lord Nolan, the committee's first Chair, made it clear after the first report in 1995 that he expected the committee to remain active. One of the drawbacks of the 'sleeping-beauty' option is that the Prince may himself may be a party to allegations and may be reluctant to initiate an inquiry. There was public criticism - for instance, by the PASC - about how the Prime Minister's independent adviser on ministerial interests was not used to investigate the allegations which led to Liam Fox's resignation as Defence Secretary in October 2011 as the Cabinet Secretary was used instead. Moreover, any inquiry by even a standing committee which is not in permanent existence, is likely to be following events. Another advantage of permanence is the opportunity to build-up institutional memory on ethical issues.
- e. **Merging the CSPL with other bodies, or delivering its functions via a new executive agency.** The alternatives of a college of regulators setting up over-arching reviews (as suggested by Professor Robert Hazell of University College London), a Public Standards Commission, an Office of Government Ethics or a statutory interests and ethics commissioner on the Canadian model (as advocated by Tony Wright, the former Chair of the PASC until 2010, and by the current PASC in this Parliament) risk blurring the lines between an ethics monitor and reviewer and regulators. The two need to be kept separate. Such a super-regulator might not only cost more but also be less flexible. There is no advantage in transferring the CSPL's functions to a new executive agency. There is a separate question about whether there are too many regulators and codes - the primary focus of the recent PASC report on 'Business Appointment Rules, and as raised in a number of submissions, but that is outside my remit. It might be an appropriate theme for a future CSPL Inquiry. Looking at the international experience, Dr David Hine of Oxford University, notes that:

'Other democracies do not offer clear-cut alternative models, achieving in a different and superficially more rational framework, all the roles we might have wanted here in the UK in the last two decades. Most continental European democracies, for example, have generic public-office corruption laws (though unlike the US and Canada few explicit conflict of interest laws). However, they do not have any over-arching regulator with responsibility for both enforcing ethics and thinking about the development of ethics infra-structure generally, and certainly not for thinking about "standards" issues which are the key remit of the CSPL. By and large ethics enforcement is either hard anti-corruption law (the responsibility of the police and

prosecutorial judiciary) or, in matters we might regard as "standards" material, it involves internally-enforced codes of conduct for individual agencies (legislature, local government, civil service etc).'

Specifically, on the suggested Canadian model, Dr Hine argued that if these arrangements were transposed to the UK:

'it would make it hugely bigger, more bureaucratic, and potentially more politically contested. It would raise complex questions about the relationship between the existing sectoral regulators, and it would compromise the capacity for reflection and analysis, which is the committee's greatest achievement'.

28. That leaves some version of the current CSPL operating as a non-departmental public body as the most plausible option to act as ethics monitor and reviewer. The question then is whether the CSPL meets the three tests set under the Triennial Review: first that it is a technical function; second, that it is a function that needs to be delivered with absolute political impartiality; and, third, that it is a function that needs to be delivered independently of ministers. Without any question, the CSPL meets the three tests.

29. Most of the respondents praise the contribution of the CSPL to clarifying standards in public life since the mid-1990s. It has performed a valuable role in seeking to clarify and improve ethical standards in public life. Consequently, most of the public submissions - though many fewer of those expressed in private - favour the retention of the CSPL. For instance, David Beamish, Clerk of the Parliaments, speaking in his personal capacity, reflects that *'it is quite helpful for there to be a body outside the House to provide some sort of audit of our internal arrangements'*. There are exceptions. Professor Hazell, who favours a college of ethical regulators to initiate thematic inquiries, believes the CSPL should be *'wound up because there is no longer sufficient work to justify its continuing existence as a permanent body'*. The majority view though is of support for the continued existence of the CSPL. For instance, Carolyn Downs, Chief Executive of the Local Government Association, says the association:

'recognises that the CSPL has performed and continues to perform a valuable oversight function in its 18 years and we support the continuing need of the committee to shape and inform ethical practice and standards of public life and, when necessary, look in detail at specific issues in an independent capacity'.

How well is the CSPL performing its role now in relation to the criteria for an ethics monitor and reviewer stated above?

30. **Independence.** The CSPL is dependent on the Cabinet Office for its budget and the appointment of members and staff. This has at times been an uneasy relationship in view of delays in appointments (now conducted via a transparent public appointment process for non-political members). The CSPL has been subject to scrutiny by parliamentary committees.

31. **Permanent and self-activating.** The CSPL has now been in existence for eighteen years and is treated as permanent. By convention, the committee consults

the Prime Minister before starting an inquiry, and can be asked to mount an inquiry on a specific subject. But the decision on whether to proceed is taken by the committee, though there are questions about how this has worked out in practice, as discussed below. The committee also decides on the timing of publication of its reports, which coincide with submission to the Prime Minister, rather than waiting for the Government to publish them.

32. **Separate from sectoral regulators.** Despite the creation of a tight network of regulators, a separation from them has been maintained, though there has been tension at times with both the Electoral Commission and the Independent Parliamentary Standards Authority.

33. **Focussing on broad principles, systems and frameworks** and not on specific complaints or alleged abuses. The CSPL has consistently resisted calls to investigate fresh scandals, and the current committee, though not everyone who has left it, has been cautious in media comments about current controversies.

34. The most sensitive part of any review is assessing recent performance. Judgements differ over decisions taken in good faith and for understandable reasons at the time. But this review must assess the overall impact especially in the light of a number of criticisms that the committee has lost its way, no longer makes much impact and is scratching around for things to do. The key issues are:-

35. **Choice and timing of inquiries.** The CSPL was slow to initiate an inquiry into MPs expenses largely because of authoritative assurances that the House of Commons was addressing the situation itself. The committee accepts that *'although, in retrospect, it was over-optimistic in its estimation of the House of Commons' capacity to resolve its problems itself, at the time it was felt important they were given the chance to do so before an independent inquiry was launched'*. When the inquiry was finally launched in April 2009, it became caught up in the hurried response to the revelations over MPs' expenses and the legislation creating IPSA was passed before the committee reported. This overlap with IPSA was unavoidable in the circumstances, but led to confusion and tension. The committee has not so far initiated an inquiry into lobbying because of pre and post 2010 election statements about government proposals. The committee participated in the government consultation on a register of lobbyists though nothing has subsequently happened. The committee believes it would have wrong to have launched inquiries on important issues where inquiries were already being undertaken by others. Others might argue that the rightly asserted independence of the committee might be demonstrated by being bolder in seeking to lead, rather than follow, the debate in such areas.

36. Conversely, the committee has been criticised for not adding much to what was already known - and had been set out in Sir Hayden Phillips review - in its major inquiry into party funding. The committee believes it went further than the Phillips review on a number of issues such as the level of the cap on donations and on state funding.

37. All these are fine judgement calls, but the net effect has been that the committee has had less impact recently than in earlier years – particularly as there is now a more crowded field of comment on ethical issues. It was striking during the

review that a number of people in the political and media worlds who might have been expected to have a view about the future of the CSPL said they were unaware of what it had done and did not express an opinion.

38. These criticisms have led to complaints that the CSPL no longer has role. Whatever may be said about its choice of subjects, its strategic plan for 2012-15 sets out a long list of areas in which it may take an interest in the next few years. These include the ethical implications of the greater involvement of the private and voluntary sectors in delivering public services; the effectiveness of the Ministerial Code and of the Prime Minister's Independent Adviser on Ministerial Interests; the adequacy of the current legislation and machinery of detection and prevention of electoral fraud; the effectiveness of the current arrangements relating to lobbying in the light of recent changes and proposals; ethical standards in the police; and the role of the media in promoting and maintaining standards and its effects on public trust in the light of the Leveson inquiry. The committee has also said that it may wish to follow-up previous inquiries over the next three years in the areas of party funding and local government standards in the light of the abolition of previous arrangements by the Localism Act 2011. Even if in some of these cases, it may be argued that the reviews would best be conducted by other bodies or by sectoral regulators, (though there is no longer one for local authorities in England) this would still leave a long agenda of work for the committee over the next few years. The question is, rather, how it conducts its inquiries. Gillian Peele of Oxford University stresses the need for flexibility:

'There are always going to be new problem areas or a resurgence of old problems in new guises. The work of the CSPL could surely not be said to be concluded in relation to lobbying and local government, or relationships inside the executive, including the role of special advisers but also relationships between ministers and civil servants'.

39. **Working methods.** The committee relies heavily on gathering and considering opinions. This has involved inviting written submissions and holding public hearings mainly in London, Edinburgh, Cardiff and Belfast. Such hearings are often poorly attended and receive little media attention. The pace of inquiries can be slow, with one roughly every sixteen months. The committee operates within tight constraints of a reduced budget, only three permanent staff and the limited time commitment of members (two days a month for ordinary members and two days a week for the Chair). The absence of much independent investigation of its own has made for what Dr Hine has described as *'a certain minimalism of operation and analysis; a civilized and thoughtful armchair ethics seminar punctuated by the submissions and sometimes the presence of expert witnesses, and a large amount of consultation with sectoral ethics regulators'*. There are recent, welcome signs of a reappraisal of its working methods, such as introducing video and telephone conferencing, a blog and a twitter account, as well as the use of seminars and workshops in its current comparative inquiry into ethical standards. These can all be cheaper than public hearings around the country, which the committee finds valuable to probe and question witnesses over their submissions.

40. **Devolution.** There has been ambiguity over the committee's relations with the devolved bodies. The CSPL was created before the legislation on devolution to

Scotland, Wales and Northern Ireland, and it maintains an active programme of contacts and visits to the devolved capitals to collect evidence, on a far larger scale than in the rest of the UK outside London. The committee argues that its visits to the devolved capitals are mainly to collect information about different ways of doing things, and not to inquire into devolved responsibilities. But the dividing lines are not clear to those involved and the Committee's strategic plan for 2012-15 refers to considering the ethical landscape across the UK as a whole, referring specifically to members of the devolved legislatures. While the work of the CSPL is appreciated in the devolved capitals, there is, in the words of Carwyn Jones, First Minister of Wales:

'the possibility of an inherent tension in the present remit of the committee covering the devolved countries as well, as it does at the moment, but with (as I understand it) the committee being accountable solely to the Prime Minister and with no mechanism for the Welsh Government or the political parties in Wales to have a say in the composition of the committee or its work programme'.

41. Trevor Reaney, Clerk to the Northern Ireland Assembly, acknowledges the CSPL's *'welcome and useful contributions to the development of a number of policies and practices at the Assembly'*. However, he considers it *'to be vital that any public body with a UK wide remit has representation on its board from Northern Ireland and is seen to be active in issues relating partially or wholly to Northern Ireland'*.

42. At present, one member of the committee comes from the devolved nations (Lord Alderdice, from Northern Ireland) though he is nominated by the Liberal Democrat party leader.

43. Scotland has created its own machinery on ethical standards and is, subject to public consultation and the approval of the Scottish Parliament, in process of creating a Commissioner for Ethical Standards in Public Life in Scotland. On the basis of the very different statutory regime in place in Scotland, Sir Peter Housden, Permanent Secretary to the Scottish Government, argues that:

'it is not appropriate for the Committee on Standards in Public Life, an advisory NDPB sponsored by the Cabinet Office, to consider and report to UK ministers and the UK Parliament on devolved matters which are the responsibility of the Scottish Ministers and the Scottish Parliament. Having said that, I should add that we find the Committee's reports and recommendations useful in helping us to assess the effectiveness of our own arrangements'.

44. Whatever weight is put on the criticisms at paragraphs 34 to 39 - and there is clearly a danger of retrospective judgement, there is no disagreement that the Triennial Review provides an opportunity for a fresh start for the CSPL. This should encompass its strategy, working practices, governance and staffing. The committee's budget has already been cut by more than a quarter since 2010-11 and is due to fall by a further tenth to £452,000 in 2013-14. It is unrealistic in the current overall expenditure climate to expect the committee's budget to be increased so there needs to be a change of priorities and working practices within that total. The status quo is unsustainable. Greater clarity, a concentration of available resources and fundamental changes in approach are needed if the CSPL is to play its needed role.

45. **The CSPL should be bolder in picking topics, looking ahead to emerging problems, rather than reacting to controversies.** Its focus should be on establishing where there are problems, and recommending principles and new ethical frameworks, where needed. The committee has to provide enough detail to show that its proposals are workable since disputes and uncertainty are often at the level of where limits and controls should be fixed. But, in general, the CSPL should not set out specific rules, the proper role for regulators. There is a fine balance here between clarity in recommendations and principles, and being too prescriptive on matters which can, and should, be determined by sectoral regulators, where they exist. The committee should veer towards the former, strategic role. In particular, once reports have been issued, the committee should not seek to second guess, or interfere with, the judgments of such regulators, as opposed to taking an overall view from time to time of ethical standards in a particular area. This is necessary to maintain the distinction between oversight and regulation.

46. **The CSPL - and its members, both former and current - should be cautious, as most have been, about commenting in the media on current scandals and controversies.** Such interventions risk blurring the line between ethical monitoring and regulation. However, there is a shadowy area under the CSPL's own identified work area, in its strategic plan, of 'making sure our voice is heard on standards issues'. There is a fine line between monitoring ethical standards and being drawn into comment on current controversies. The committee rightly does not comment on cases, but it also needs to be wary of commenting on the principles raised by current controversies. A desire to engage in media discussion about ethical standards and to push forward the stated positions of the CSPL opens the risk of being drawn into current controversies. The committee believes it makes an impact by responding to consultations on ethical issues and issuing statements. But its priority should be inquiries into new problems and overviews of the ethical landscape.

47. **The CSPL should keep a watching brief on broader ethical issues and maintain oversight, bringing together regulators and interested parties. But, as now, it should not regard as one of its objectives as improving public confidence or trust in public bodies and holders of public office.** However desirable in itself and as a by-product of the activities of the committee and of regulators, improving public confidence and trust is an unattainable and distracting goal, as the committee has itself acknowledged. Improvements in public trust and confidence depend less on regulators than on the conduct and attitudes of those being regulated, holders of public office, whether elected members or appointed officials. Regulation can only provide a framework. There are very tricky issues here. As Dr Hine notes:

'More ethics rules may raise standards but perversely they can at the same time feed public perceptions that standards have fallen. Moreover, we still do not know how to get the right balance between the inculcation of ethical standards through socialisation and self-regulation, and the formal/legal enforcement of ethics through tough rules and independent enforcers.'

Instead, the focus should be on what works, as in the current best practice inquiry. The seven principles of public life are always highlighted in the committee's reports - and are part of its identity - but, while unobjectionable, are not a sufficient guide to maintaining high ethical standards in practice. Submissions to this review reasonably asked why the list did not include diligence and truthfulness, both of concern to members of the public.

48. **The terms of reference of the committee in relation to devolved issues need to be clarified.** As noted above, those involved believe there are ambiguities. In future, the CSPL should make clear that it will not examine ethical issues involving devolved bodies unless it is specifically requested to do so. There are clear advantages in maintaining informal contacts for comparative purposes. But there is no reason why the committee should continue to hold public hearings in Edinburgh, Cardiff and Belfast on nationwide inquiries, rather than in, say, Manchester, Birmingham or Bristol. As I argue below, most such hearings should be ended.

49. **The remit of the committee needs to be reviewed.** The definition of holders of public office is ambiguous. Does this include all public sector workers or just elected members and senior officials at management level? It seems desirable not just to clarify the point about devolution, but also to indicate that it covers junior as well as senior public office holders; directly elected mayors and police and crime commissioners. The committee has indicated in its strategy document that, in future, it will want to look at the implications for standards of the delivery of public services by private and voluntary sector organisations, and hence members of these organisations should come within its remit.

50. **The biennial research into public attitudes should cease** since, while it has produced interesting insights into public attitudes over the years, and is now conducted more cheaply and rigorously than before, similar surveys are carried out by several other bodies. To ensure continuity of data it would be helpful if an outside body continued many of the questions asked in the biennial surveys. It is estimated that the current survey will cost around £51,000, a tenth of the current budget.

51. **The CSPL has embarked on welcome new initiatives in the gathering of evidence, such as the increased use of seminars and of rapporteurs, and in the use of the internet. The current, and frequently ill-attended, public hearings, should be largely abandoned and used sparingly,** mainly just at the end of inquiries to question major witnesses. Resources saved within the existing budget from abandoning opinion research and hearings in the devolved capitals could be shifted to fact-finding. Moreover, the end of the biennial surveys should not prevent the committee from commissioning other external research where it cannot do the work itself. These changes could permit shorter, sharper inquiries, and possibly more than at present, subject to ensuring that recommendations have a proper base in evidence and taking account of limitations on resources. Such a shift also has implications for the size and range of membership, as discussed below. But such savings should not be used to reduce the committee's budget further, below the planned level for 2013-14, after earlier sharp cuts.

Section 4: stage two of the Triennial Review

52. This section of the Report examines the control and governance arrangements of the CSPL. I have addressed these in detail in Annex D. Here I shall cover what I see as the central issues of governance: the authority and the independence of the CSPL. At present, the CSPL has developed into an unusual position. The CSPL is accountable to the Prime Minister via the Cabinet Office, with the latter involved in setting the committee's budget, on staff matters and in appointing its members. But, as noted above, it decides its own inquiries, publishes its reports at the same time as it submits them to the Prime Minister and is separately held to account by Parliament for its work and recommendations.

53. The independence of the committee needs to be strengthened:-

54. While the CSPL should remain an NDPB, **relevant parliamentary committees should have a greater role**. The Chair of the PASC and the Constitution Committee of the Lords should be consulted before the process of seeking a new Chair starts, in order to discuss the type of person wanted. The appointment panel for the Chair, and ordinary members, should include an MP (excluding members of the PASC) or peer and someone from outside the public sector. A pre-appointment hearing for the new Chair before the PASC is desirable to reinforce accountability to Parliament.

55. **The committee should decide on its own inquiries after consultation with the Prime Minister/Cabinet Office, and the Chairs of PASC and the Lords Constitution Committee**, Reports should go to the Prime Minister at the same time as they are published, but there should remain an expectation that the CSPL might be questioned on their recommendations by parliamentary committees.

56. **The process of appointing members should be overhauled**. At present, it is far too slow, as the CSPL has pointed out, and the range of new members is from too narrow a background and experience, mainly from across the public sector. Only two members under the age of 50 have been appointed since 1994 and none since 2000. No one from an ethnic minority background has ever been appointed (see Annex E for further details). The current system of advertising vacancies is insufficient and a more aggressive recruitment process, possibly including headhunters, is needed to attract members who are younger, already with a high public profile, and from a wider range of backgrounds.

57. The proposals for a fresh start for the committee with different priorities and working methods, and undertaking shorter, sharper inquiries, raise difficult questions about both membership and staffing. Would the resulting demands deter high quality, busy candidates with other working commitments? Clearly, there is a question of balance. The committee Chair is appointed, and paid, on the basis of working two days a week on its business. This could be reviewed with a smaller basic commitment and more flexibility to permit more days, paid on a daily basis, when needed during inquiries. At present, ordinary members are expected to commit to around two days a month, for which they receive a daily fee. There is not the money to increase their involvement much, assuming members had the time. But more flexibility would be introduced if the size of the committee was cut from ten to seven with more members being added for specific inquiries. This would still give the non-political members, including the Chair, a majority, assuming that the three

members suggested by the main party leaders are kept. There is a strong case for retaining the involvement of those with direct political experience in this way, but their selection should be on a broader basis within Parliament rather than just the choice of party leaders. The package recommended in this review will not work without the recruitment of high quality staff, even if their numbers will be limited, and be less than the staff of most Commons select committees. A commitment to achieving this must be a priority for the Cabinet Office.

Section 5: Conclusion

58. The review consequently recommends the retention of the CSPL as a non-departmental public body, with greater accountability to Parliament, and on a refreshed basis, adopting a more strategic role and sharper, more innovative working methods.

The Rt Hon Peter Riddell CBE
19 December 2012

ANNEX A - Written Ministerial Statement announcing the review

Committee on Standards in Public Life (Triennial Review)

The Minister for the Cabinet Office and Paymaster General (Mr Francis Maude):

I am today announcing the start of the triennial review of the Committee on Standards in Public Life (CSPL). Triennial reviews of non-departmental public bodies (NDPBs) are part of the Government's commitment to ensuring that NDPBs continue to have regular challenge on their remit and governance arrangements.

The review will be undertaken by an independent external reviewer, Peter Riddell, Director of the Institute for Government, who will want to consult widely with relevant stakeholders, including Parliament, the devolved Administrations, the main political parties, academics, ethics regulators and others with an interest in the work of the Committee. He will be issuing an issues and questions paper in due course and the findings of the review will be published. Peter will be supported in the review by the Cabinet Office. At his request, he will not be paid for his time.

In common with all such reviews, Peter Riddell will undertake the following:

to challenge the continuing need for this NDPB—both its functions and form; and; if it is agreed that it should remain as an NDPB, to review its control and governance arrangements to ensure that it is complying with recognised principles of good corporate governance.

The aim will be to complete the review in the autumn.

ANNEX B - questions the 'issues and questions' paper asked

Part one of the review – the functions and form of the CSPL

The 2000 Quinquennial review concluded that: *'Two things are now clear. The task is substantially completed and the ethical framework has been changed significantly. Yet there remains a continuing need to monitor the ethical environment and to respond to issues of concern which may arise'* (paragraph 23). Twelve years on, is this still the case?

In summary: **Do the key functions of monitoring and reviewing big emerging questions performed by the CSPL continue to be necessary and, if so, do they need to be done by the CSPL?**

. Some specific questions are:

Q1: Does the UK still need a permanent ethics monitor and reviewer? Or, now that several regulators are in place (for example the Electoral Commission) are their other bodies that could effectively carry out this role?

Q2: The CSPL's current remit covers Scotland, Wales and Northern Ireland. Should it be looking at developments in the Devolved Administrations?

Q.3 How well do you think the CSPL fulfils its role at present? What do you think it should do?

Q4: Is the CSPL the right body to do this work, in the light of what it is doing now?

Q5: If there is a need for a body to fulfil this role, should it be done by some other organisation?

Q6: What other organizations might carry out the CSPL's role - another non-departmental public body, or Parliament? Are there parts of the Committee's work, such as research into public attitudes, which could be done elsewhere?

Q7: Should the CSPL's role as an ethics monitor and reviewer remain separate from the remit of specific regulators?

Q8: Should the CSPL have a more formal relationship with regulators, or is the current, informal, relationship the right one?

Q9: Should the CSPL's remit be limited to systems and structures, as it is now, or should it look into particular complaints?

Q10: The Public Administration Select Committee recommended in its July 2012 Report: *Business Appointments Rules*⁸ that the Government consider merging the role of the CSPL into those of a statutory Conflict of Interest and Ethics Commissioner (based on the Canadian Commissioner of the same title). Should this idea be looked at in more detail?

Q11: How do other countries manage the work that CSPL does and are there any lessons to be learnt from how similar bodies in these countries operate, like the Canadian model (see above)? Could they work in the UK?

Part two of the review – the control and governance of the CSPL

In summary: **If you consider that an advisory NDPB is the right way to deliver the CSPL's functions are the current control and governance arrangements the right ones?**

Some specific questions are:

Q12: Membership – is the method of selecting the members of the Committee right? Should there be a change to the number of members of the Committee? Is the length of time Committee members serve, from 2012, fixed terms of five years right? Is the balance of members experience and background correct? Should an attempt be made to broaden the range of experience and background of members? Given the length of time it can take to appoint members, is the appointment process working as well as it should do? Or is it too time consuming? Should there be a smaller core of permanent members with the freedom to bring in expertise as necessary?

Q13: Resources – does the Committee have enough resources and expertise to fulfil its functions? Should the Committee continue to be funded by the Cabinet Office and housed on the Cabinet Office estate? Should the Committee Secretariat continue to be staffed by civil servants?

Q14: Work programme – should the Committee, as now, have to consult, though not seek the agreement of, the Prime Minister before beginning its Inquiries, or should it be free to investigate issues as it sees fit? How does the Committee decide on what to investigate? Are its methods appropriate and effective? Are there areas that the Committee should have investigated but has not, and vice versa? Are there now areas that should be left to the specific regulators rather than the Committee? The Committee has historically conducted its Inquiries by seeking written evidence and then holding oral hearings, both in London and around the UK, is this the most inclusive and efficient method? Its current Inquiry is using themed seminars with invited attendees. Is that sufficient to get a wide range of opinions?

Q15: Governance – should the Committee continue to report to the Prime Minister? Or should it be accountable either wholly, or partly, to Parliament beyond a pre-appointment scrutiny by the Public Administration Select Committee? In order to reinforce its independence, should the Committee be put on a statutory basis? Should the Committee continue to be a standing committee, permanently active, monitoring, commenting on developments carrying out research etc, as it is now, or should it only be convened to carry out specific Inquiries?

In accordance with Cabinet Office guidance, part two of the review will also include an assessment of adherence against each of the principles of good corporate governance, using the standard comply or explain methodology.

ANNEX C - substantive written responses the review received and discussions and meetings the review team held with interested parties.

Substantive written responses the review received:

- The Committee on Standards in Public Life
- The Rt Hon the Lord Butler of Brockwell KG GCB CVO
- The Lord Empey OBE
- Professor Robert Hazell CBE
- Professor Dawn Oliver QC
- Professor Michael Macaulay
- Professor Matthew Flinders
- Professor Tony Wright
- Professor Justin Fisher
- Dr David Hine
- Ms Gillian Peele
- Sir Philip Mawer
- Sir Alistair Graham
- Dr Elizabeth Vallance
- The Rt Hon Kevin Barron MP⁹
- Graham Allen MP¹⁰
- Bernard Jenkin MP¹¹
- Clerk of the Parliaments (David Beamish)
- Parliamentary Commissioner for Standards (John Lyon CB)
- House of Lords' Commissioner for Standards (Paul Kernaghan)
- Chief Executive of the Local Government Association (Carolyn Downs)
- Chair of the Electoral Commission (Jenny Watson)
- Director of Full Fact (Will Moy)
- Permanent Secretary to the Scottish Government (Sir Peter Housden KCB)
- First Minister of Wales (Carwyn Jones AM)
- Public Service Ombudsman for Wales (Peter Tyndall)
- Andrew RT Davies AM
- Chief Executive and Clerk to the National Assembly for Wales (Claire Clancy)
- Clerk to the Northern Ireland Assembly (Trevor Reaney)
- Mr Chris Drew

Discussions and meetings the review team held with interested parties:

- The Committee in Standards in Public Life
- The Public Administration Select Committee

⁹ Mr Barron was responding in a personal capacity and not in his position as Chair of the Committee on Standards in Privileges. He did however consult his colleagues on the Committee before responding.

¹⁰ Mr Allen was responding in a personal capacity and not in his position as Chair of the Political and Constitutional Reform Committee.

¹¹ Mr Jenkin was responding in a personal capacity and not in his position as Chair of the Public Administration Select Committee. He did however discuss his response with his colleagues on the Committee.

- The Chair and the Secretary to the CSPL
- The Minister for the Cabinet Office
- The Rt Hon the Baroness Jay of Paddington
- The Lord O'Donnell GCB
- The Lord Turnbull KCB CVO
- Sir Alex Allan KCB
- Clerk of the House of Commons (Robert Rogers)
- Leader of the House of Lords (The Rt Hon the Lord Strathclyde)
- The Government Chief Whip (The Rt Hon Sir George Young Bt MP)
- Oliver Heald QC MP¹²
- Chief Executive of the Independent Parliamentary Standards Authority (Andrew McDonald)
- Professor Anthony King
- Dr David Hine
- Dr Michael Pinto-Duschinsky
- Clerk of the Committee on Standards and Privileges (Eve Samson)

¹² The meeting with Mr Heald was in his capacity as a former member of the CSPL and not related to his current position as Solicitor General.

ANNEX D: the corporate governance of the CSPL

Introduction

1. As noted in paragraph 52 of the Report this annex is an assessment of the corporate governance of the CSPL. This is a 'light touch' assessment as the key issues of governance are explored in more detail in the main body of the Report.
2. The Cabinet Office guidance on Triennial Reviews explains that non departmental bodies should be assessed to ensure that the body is operating in line with recognised principles of good corporate governance. The guidance contains principles of good corporate governance in executive non departmental bodies. The CSPL is however an advisory non departmental public body. The Cabinet Office has provided the review team with a copy of the draft guidance for advisory non departmental public bodies and the CSPL has been assessed on this basis. The four key areas are: accountability, roles and responsibilities, communications and conduct.
3. The CSPL does not have a board, so references to boards within the Cabinet Office guidance have been interpreted throughout to refer to the Committee itself. The guidance also refers to 'the Minister' in places. The responses clarify whether this is the Prime Minister or the Minister for the Cabinet Office.

Accountability

4. The principle is: the Minister is ultimately accountable to Parliament and the public for the overall performance, and continued existence, of the public body. The supporting provisions are:
 5. **First**, the Minister and sponsoring department should exercise appropriate scrutiny and oversight of the public body. This includes oversight of any public monies spent by, or on behalf of, the body.
 6. The Cabinet Office, as the sponsor department, does exercise appropriate financial oversight of spending by the CSPL. The department provides the Committee with its budget and the Cabinet Office Accounting Office remains, ultimately, responsible for any expenditure. The Secretary of the Committee has delegated authority over the Committee's budget, subject to certain controls on procurement and on particular types of expenditure (eg marketing and staffing) and reports monthly on resource expenditure. The Secretary also has to establish internal controls (within the Secretariat) for the resources for which she has delegated authority and provide assurances to the Accounting Officer that these controls are effective.
 7. **Second**, Appointments to the board should be made in line with any statutory requirements and, where appropriate, with the Code of Practice issued by the Commissioner for Public Appointments.
 8. There are no statutory requirements for appointments to the CSPL. Seven of the Committee members (including the Chair) are appointed through open

competition under the rules of the Office of the Commissioner for Public Appointments (OCPA). Three members are nominated by political parties (see paragraph 56 of the Report).

9. **Third**, the Minister will normally appoint the Chair and all board members of the public body and be able to remove individuals whose performance or conduct is unsatisfactory.

10. The Prime Minister does appoint all members of the Committee, seven following a process of open competition and three after nomination from the three main political parties (see paragraph 8, above). Under the Committee's Code of Practice¹³, the Prime Minister may remove members if they fail to perform the duties required of them in line with the standards expected in public office.

11. **Fourth**, the Minister should meet the Chair on a regular basis.

12. The Chair meets the Prime Minister on an occasional basis when there are matters of mutual interest to discuss, for example prior to the publication of the Committee's reports. The last meeting between the Chair and the Prime Minister was on 30 August 2011. In the interim the Chair meets the Cabinet Secretary, usually on a six-monthly basis. The Chair also meets the Minister for the Cabinet Office at least once a year.

13. **Fifth**, there should be a requirement to inform Parliament and the public of the work of the public body through publication of an annual report (or equivalent publication).

14. The CSPL publishes an annual report. Copies are available on their website but it is not laid before Parliament. It also publicises details of its activities via its website

15. **Sixth**, the public body must be compliant with Data Protection legislation.

16. The CSPL is registered with the Information Commissioner's Office as a data controller. The CSPL's Secretariat is funded and staffed by Cabinet Office civil servants (and other public servants seconded or loaned to the Cabinet Office). The Committee stores its data on Cabinet Office IT and records management systems, as do all Cabinet Office staff, in accordance with Cabinet Office guidelines. The Committee's website also includes a page with information on what members of the public should do if they wish to make a Subject Access Request under the Data Protection Act 1988.

17. **Seventh**, the public body should be subject to the Public Records Acts 1958 and 1967.

18. See paragraph 16, above. The CSPL is subject to the Public Records Acts as its staffed by Cabinet Office civil servants (and other public servants seconded or loaned to the Cabinet Office).

¹³ http://www.public-standards.org.uk/Library/20100421_Committee_Code_of_Practice_final_2_.pdf

Roles and responsibilities – the sponsoring Department

19. The principle is: the departmental board ensures that there are appropriate governance arrangements in place with the public body. There is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the public body. The supporting provisions are:

20. **First**, The departmental board's agenda should include scrutiny of the performance of the public body

21. The performance report discussed at each Cabinet Office Board meeting includes CSPL headcount figures. It also includes information about the Committee's finances.

22. **Second**, there should be a document in place which sets out clearly the terms of reference of the public body. It should be accessible and understood by the sponsoring department and by all board members. It should be regularly reviewed and updated.

23. The CSPL's terms of reference are available on their website¹⁴ they are accessible and understood by sponsoring department. The Committee informally considers its terms of reference on a regular basis, including when considering whether certain inquiries would fall within its remit. There has been no formal review of the Committee's terms of reference since the Quinquennial Review conducted in 2000.

24. **Third**, there should be a dedicated sponsor team within the parent department. The role of the sponsor team should be clearly defined.

25. The Propriety and Ethics Team in the Cabinet Office is sponsor team for the CSPL.

26. **Fourth**, there should be regular and ongoing dialogue between the sponsoring department and the public body.

27. There is regular informal and formal contact between the CSPL and the Cabinet Office. Regular informal meetings are held between the Committee Secretary and the Propriety and Ethics team, to discuss matters of mutual interest. The Secretary also meets representatives of Cabinet Office HR, finance and procurement functions as appropriate.

28. **Fifth**, there should be an annual evaluation of the performance of the board and its committees – and of the Chair and individual board members

29. The Committee's annual report, detailing its activity over the year and financial information, is examined by the Cabinet Office.

¹⁴ http://www.public-standards.org.uk/About/Terms_of_Reference.html

Roles and responsibilities – the Chairman

30. The principle is: the Chair is responsible for leadership of the board and for ensuring its overall effectiveness. The supporting provisions are:

31. **First**, the board should be led by a non-executive Chair.

32. The CSPL is an advisory Committee with no executive role and the Chair is, therefore, non-executive.

33. **Second**, there should be a formal, rigorous and transparent process for the appointment of the Chair. This should be compliant with the Code of Practice issued by the Commissioner for Public Appointments. The Chair should have a clearly defined role in the appointment of non-executive board members.

34. The appointments of the Chair and non-political Committee members are conducted in line with the Code of Practice issued by the Commissioner for Public Appointments. The Chair is part of the appointment panel for non-political members. The appointment of political members takes place following nominations by party leaders and is not compliant with OCPA guidelines, nor is there any formal or informal role for the Chair.

35. **Third**, the duties, role and responsibilities, terms of office and remuneration of the Chair should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements. The responsibilities of the Chair will normally include:

- a. representing the public body in discussions with Ministers;
- b. advising the sponsoring Department and Ministers about board appointments and the performance of individual non-executive board members;
- c. ensuring that non-executive board members have a proper knowledge and understanding of their role and responsibilities. The Chair should ensure that new members undergo a proper induction process and is normally responsible for undertaking an annual assessment of non-executive board members' performance;
- d. ensuring that the board, in reaching decisions, takes proper account of guidance provided by the sponsoring department or Ministers;
- e. ensuring that the board carries out its business efficiently and effectively; and
- f. representing the views of the board to the general public.

36. The role of the Chair is set out in the CSPL's Code of Practice. The Committee's annual reports set out the Chair's remuneration (£50,000 per annum) and terms of office (a single, non renewable, five year term). There are no relevant statutory requirements.

Roles and responsibilities – Board members

37. The principle is: Board members should provide independent, expert advice. The supporting provisions are:
38. **First**, there should be a formal, rigorous and transparent process for the appointment of non-executive members of the board. This should be compliant with the *Code of Practice* issued by the Commissioner for Public Appointments
39. See paragraph 34, above.
40. **Second**, Board members should be properly independent of the Department and of any vested interest (unless serving in an ex-officio or representative capacity).
41. The CSPL's Code of Practice clearly sets out what is expected of Committee members with regards to any conflict of interest.
42. **Third**, members should be drawn from a wide range of diverse backgrounds. The board as a whole should have an appropriate balance of skills, experience, independence and knowledge.
43. See paragraph 56 of the Report.
44. **Fourth**, the duties, role and responsibilities, terms of office and remuneration of board members should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements.
45. The role of CSPL members, like the Chair (see paragraph 36, above), is set out in the CSPL's Code of Practice. The Committee's annual reports set out Committee members' remuneration (£240 per day) and terms of office (a single, non renewable, five year term for the latest appointments.). There are no relevant statutory requirements.
46. **Fifth**, all board members must allocate sufficient time to the board to discharge their responsibilities effectively.
47. Committee members are expected to spend around two days a month working on behalf of the Committee, a time commitment which may increase towards the conclusion of any major inquiry.
48. **Sixth**, there should be a proper induction process for new board members. This should be led by the Chair. There should be regular reviews by the Chair of individual members' training and development needs.
49. New members are invited to meet the Chair at the earliest opportunity. Further meetings, for example with the Chair of the Research Advisory Board and other Committee members are arranged as appropriate. New members are provided with a detailed pack of information about the Committee, prepared by the secretariat, who are available to answer any practical questions. The Chair informally reviews individual members' development needs as necessary.

50. **Seventh**, All board members should ensure that high standards of corporate governance are observed at all times. This should include ensuring that the public body operates in an open, accountable and responsive way.

51. The CSPL's Code of Practice sets out how members should conduct themselves. The Committee's website and annual report both include sections on how to make a request for information, under the Freedom of Information Act 2000, to the Committee. The website also includes a register of members of interests¹⁵ and fees and expenses with details of the Committee's expenses policy and travel and subsistence policy¹⁶. The Committee holds an annual meeting which is open to the public to ensure that it remains open and accountable.

Communications

52. The principle is: the Public Body should be open, transparent, accountable and responsive. The supporting provisions are:

53. **First**, the public body should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000.

54. The CSPL is a body covered by the Freedom of Information Act 2000. Its website¹⁷ and annual reports both contain sections on Freedom of Information. It has a publication scheme.

55. **Second**, the public body should make an explicit commitment to openness in all its activities. Where appropriate, it should establish clear and effective channels of communication with key stakeholders. It should engage and consult with the public on issues of real public interest or concern. This might include holding open meetings or annual public meetings. The results of reviews or inquiries should be published.

56. The CSPL does make an explicit commitment to openness, indeed openness is one of the seven principles of public life that the Committee formulated. The Committee's public hearings and seminars are open to members of the public. The results of the Committee's Inquiries are published on their website. The Committee holds an annual accountability meeting which is open to the public.

57. **Third**, the public body should proactively publish agendas and minutes of board meetings.

58. The agendas and minutes of the CSPL's meetings are published on their website¹⁸.

59. **Fourth**, there should be robust and effective systems in place to ensure that the public body is not, and is not perceived to be, engaging in political lobbying.

¹⁵ http://www.public-standards.org.uk/About/Register_of_Interests.html

¹⁶ http://www.public-standards.org.uk/About/Committee_s_Expenses.html

¹⁷ <http://www.public-standards.org.uk/info.html>

¹⁸ http://www.public-standards.org.uk/OurWork/Meeting_Summaries.html

There should also be restrictions on board members attending Party Conferences in a professional capacity.

60. The CSPL's Code of Practice sets out how members should conduct themselves. The members of the Committee nominated by the three main political parties may, obviously, attend Party Conferences as they are serving politicians. They do not attend in their role as a member of the Committee.

Conduct and behaviour

61. The principle is: Board members should work to the highest personal and professional standards. They should promote the values of the public body and of good governance through their conduct and behaviour. The supporting provisions are:

62. **First**, a Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all board members. This should follow the Cabinet Office Code. All members should be aware of the Code. The Code should form part of the terms and conditions of appointment.

63. The CSPL's Code of Practice sets out the standards of behaviour expected of Committee members.

64. **Second**, there are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for board members. This is regularly updated.

65. The CSPL's Code of Practice includes provisions relating to conflicts of interest. There is a Register of Interests available on the Committee's website¹⁹ which is reviewed at every monthly Committee meeting and was last updated in November 2012.

66. **Third**, there must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules.

67. The CSPL has an expenses policy and a travel and subsistence policy. Both are available on its website. The secretariat operates effective systems to ensure that all claims comply with these rules.

68. **Fourth**, there are clear rules and guidelines in place on political activity for board members and that there are effective systems in place to ensure compliance with any restrictions.

69. The CSPL's Code of Practice has a section with rules/guidelines about the political activity of Committee members. The Committee's register of interests requires members to declare any relevant political activity.

¹⁹ http://www.public-standards.org.uk/About/Register_of_Interests.html

70. **Fifth**, there are rules in place for board members and senior staff on the acceptance of appointments or employment after resignation or retirement. These are enforced effectively.

71. Committee members are not subject to any rules on the acceptance of appointments or employment after resignation or retirement. Senior staff are subject to the rules operated by the Office of the Advisory Committee on Business Appointments for a period of two years following the termination of their employment. Junior staff are subject to the rules operated by the Cabinet Office.

ANNEX E - information on the background and age on appointment of the CSPL members

Name	Term	Background	Age on appointment
Lord Nolan (chair)	1994–97	Judge	66
Sir Martin Jacomb	1994–97	Law and business	65
Rt Hon Tom King	1994–97	Conservative MP	61
Rt Hon Lord Thomson	1994–97	Lib Dem peer	73
Dame Anne Warburton	1994–97	Diplomat	67
Professor Anthony King	1994–98	Academic (government)	60
Diana Warwick	1994–99	Public sector and education, including CEO of Universities UK	49
Sir Clifford Boulton	1994–2001	Clerk of the House of Commons	64
Rt Hon Peter Shore	1994–2001	Labour MP	70
Lord Neill (chair)	1997–2001	Barrister	68
Sir Anthony Cleaver	1997–2003	Business, including CEO of IBM	59
Lord Goodhart	1997–2003	Lib Dem peer	64
Frances Heaton	1997–2003	Finance (inc. director of Lazard Brothers and The Takeover Panel) and civil service	53
John Macgregor	1997–2003	Conservative MP	60
Professor Alice Brown	1998–2003	Academic (politics and economics)	51
Ann Abraham	2000–02	Public sector, inc. local government and Legal Services Ombudsman	48
Rabbi Julia Neuberger	2001–04	Rabbi and public sector and charity leader	51
Sir Nigel Wicks (chair)	2001–04	Civil service and finance, inc. chair of Euroclear	61
Chris Smith	2001–04	Labour MP	50
Rita Donaghy (interim chair 2007–08)	2001–08	University administrator and trade unionist	57
Professor Hazel Genn	2003–07	Academic (law)	54
Sir Alistair Graham (chair from 2004)	2003–07	Public sector and trade unionist	61
Baroness Maddock	2003–09	Lib Dem peer	58
Rt Hon Baroness Shephard	2003–07	Conservative peer	63
Baroness Jay	2004–05	Labour peer	65
Dame Patricia Hodgson	2004–08	Broadcasting	57
Dr Brian Woods-Scawen	2004–11	Accountant	58

Dr Elizabeth Vallance	2004–11	Academic (business and politics)	59
Lloyd Clarke	2004–11	Police	52
Alun Michael	2005–10	Labour MP	62
Oliver Heald	2008–12	Conservative MP	54
Sir Christopher Kelly (chair)	2008–13	Civil service	62
Sir Derek Morris	2008–14	Academic (economics and business)	63
Dame Denise Platt	2008–14	Public sector, including social work and care	63
David Prince	2009–15	Local government, inc CEO of Standards Board	61
Lord Alderdice	2010–13	Lib Dem peer	55
Rt Hon Margaret Beckett	2010–13	Labour MP	67
Sheila Drew Smith	2012–17	Economist in private and public sectors	65
Patricia Moberly	2012–17	School teacher and public sector leader	74
Richard Thomas	2012–17	Law, business and public sector, including Information Commissioner	63