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Committee on Standards in Public Life
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I write to you as concisely as I can with a suggestion regarding the Seven Principles of Public Life.

In order that you can judge quickly of the overall idea, I begin with a summary of it. Since I have also to declare an interest in the issue, I move to that second. If, after this, you still feel it worthwhile to read on then the remainder of my letter sets forth the argument analytically and in detail.

Summary

In the winter of 2008-09 the Learning and Skills Council (LSC)'s capital programme, Building Colleges for the Future (BCF), collapsed. At least £200 million of public money was wasted on preparing building projects for which there was never any prospect of finance[1]. Two investigations were conducted in its wake: Sir Andrew Foster's A Review of the Capital Programme in Further Education (March 2009) and the (then) House of Commons' Innovation, Universities, Science and Skills Committee's Spend, spend, spend? – the mismanagement of the Learning and Skills Council's capital programme in further education colleges (July 2009).

These Reports itemised a number of significant failings in the management of BCF. Measured against the Seven Principles of Public Life (SPPL), none of them appears to have been in breach.

On closer analysis, a failure of communication within both LSC and the Department for Innovation, Universities and Skills (DIUS) highlights a lack of responsibility among officials for the wider corporate aims of their organisations - beyond the specific terms of their own roles within them. This points towards the need for an eighth Principle of Public Life: **responsibility: not only for the conduct of one's individual role but also for the values, aims and purposes**

[1] See Select Committee para. 123

of the organisations which holders of public office serve. Adopting such a principle would promote the impact of thinking about organisational culture in which the Committee on Standards in Public Life is already very much engaged.

Declaration of Interest and timing of this paper

In January 2008 my own College (Brighton Hove & Sussex Sixth Form College) became a victim of the collapse of BCF. In the aftermath, we were ranked the highest sixth form college nationally *not* to receive capital funding. We were substantially reimbursed for our wasted expenditure (£2.5 million) although we have, of course, to cope with the work arising from prolonged under-investment in buildings we had assumed would be demolished.

I hope that the passage of time has enabled me to undertake a balanced and impartial analysis of the Reports quoted above. Far from dwelling on what went wrong, my intention in writing to you is to maximise the good that could still come from them. You will make up your own mind on whether I've succeeded in attaining due objectivity!

What is certainly the case is that the dust has now definitively settled. Not only the passing of many months but a change of government now separates us from the events in question. The LSC and DIUS have both been abolished. It is improbable, at this distance, that anything would materially change one's view of the events and particularly the management behaviour in question.

The Argument

1.0 The Seven Principles of Public Life (SPPL) should help safeguard standards in public life. When such standards have been breached it is therefore appropriate to ask what lapses there may have been in regard to the SPPL.

1.1 In regard to the collapse of BCF, the Principle that appears most relevant is Accountability.

2.0 As expressed within the SPPL, the primary emphasis of Accountability is upon ownership of decisions and actions and upon readiness to acknowledge it:

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

2.1 On this definition, neither Foster nor the Select Committee provide evidence of any breach. No one with whom they wished to speak declined to give an account of their actions or refused to answer questions[2].

2.2 The majority of the failings noted in the Reports was caused by people not doing their jobs effectively and arguably, in certain cases, not even properly. Whilst these failings contributed greatly to generating the crisis in BCF, they are probably rightly regarded as individual professional errors rather than as touching on principles of public life.

2.3 Examples of such failures within the LSC and DIUS noted in the Reports are:

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[2] Although one is left with the impression that the Select Committee felt the LSC Chairman should have resigned (as the Chief Executive in fact did). See ibid. paras 66 – 69 inc.

- Not keeping a tally of the money committed and the value of applications in process[3]
- Lack of a prioritisation strategy[4]
- No regulation of the demand-led approach[5]
- Poor risk-management[6]
- Overall failure of oversight at highest level[7]

2.4 It would thus appear that the mismanagement of millions of pounds in the BCF scheme infringed not a single one of the Seven Principles of Public Life.

3.0 A particular group of criticisms in the Reports can be distinguished which is to do with the failure within both LSC and DIUS to communicate the substance of the Capital Affordability Review (otherwise known as the Edwards Report).

3.1 The Edwards Report, of 11 February 2008, warned that

> "…if current policies did not change and the tempo of capital projects is maintained, the demand for capital grant payments moves in 2010-11 up to £450 million above the funds available for FE projects. This simply proves that the continuation of the current payment profile of projects is unaffordable to the Council."[8]

3.2 This clear, stark warning was not communicated effectively within LSC and DIUS and ten months later the crisis broke with the decision on 17 December 2008 to suspend consents to capital applications. As Foster comments:

> The report was initially presented to the right committees. But sadly it was not shared widely at a senior level in either the LSC or in DIUS.[9]

3.3 One reason for the communication failure was the complexity of the LSC's management structure. The Select Committee calls it 'labyrinthine'[10] and Foster comments:

> The fact that no one grasped the nettle suggests a lack of clarity about roles and responsibilities. Who has the authority to decide what and how; who needs to know what and when?[11]

3.4 Another reason was suggested by the civil servant, Stephen Marston. When the Select Committee asked him about the communications failure, he suggested:

> "For me the critical issue is the confidence to escalate, to err on the side of escalating if you see a problem, even if the group conclusion in that meeting you are attending is, 'It is okay. Let us keep it under review. It is going to be all right.' That is what went wrong."[12]

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[3] ibid. p. 3
[4] ibid. para. 42.
[5] ibid. para. 44.
[6] ibid. para. 61.
[7] ibid. para. 69
[8] Foster para. 15
[9] ibid. para. 16
[10] Select Committee para. 22
[11] Foster para. 45
[12] Select Committee para. 27

3.5 To amend Foster's rhetorical question (at 3.3) slightly in light of this, the answer to the question 'Who has the *responsibility* to decide what and how; who needs to know what and when?' is: everyone. Various officers within LSC and DIUS understood the content and urgency of the Edwards Report. No one took it on themselves to 'escalate' it, in Stephen Marston's phrase. This was not a failure in accountability; nor was it a failure in anyone's specific role. It was, nonetheless, a failure: a failure in public life of ***responsibility***.

4.0 As a Principle of Public Life, responsibility could be formulated in the following way:

> **Holders of public office have responsibility not only for the conduct of their individual role but also for the values, aims and purposes of the organisation they serve.**

4.1 Had a Responsibility Principle, so conceived, operated robustly at the time of the BCF crisis, at the very least mitigating action would not have been delayed by ten months. Much less public money might have been wasted.

4.2 It is easy to see that such a principle would be applicable well beyond the specific circumstances and organisations with which the Reports are concerned. It would be of significant assistance in managing the risk in all complex, compartmentalised organisations that problems – even, or perhaps especially, of enormous proportions – can be believed by everyone to be someone else's to deal with.

4.3 The Responsibility Principle is not an explicit recommendation in either Report. It is clear from both, however, that such a principle will be at jeopardy in organisational cultures that discourage open reporting.

In relation to the communication failure within LSC, Foster concludes:

> I am left with a distinct feeling that bad news was itself bad news[13]

The Select Committee comments:

> Despite Mark Haysom's insistence that "I worked very hard in the LSC to try and create a culture which was really open and where people could actually come directly to me with their concerns" both he and Chris Banks, the Chairman of the Council, confirmed that they did not see the Review until much later in 2008, after the scale of the problem had become apparent.[14]

and later adds, in the same sceptical vein:

> It is not clear to us why, given that we were told that, commendably, Phil Head had been responsible for commissioning the Edwards report which gave the first warning signs over the programme, there appears to have been no discussion about looming longer-term problems between him and the then Chief Executive (or Chairman) through 2008. This seems particularly curious given the then Chief Executive's self-proclaimed 'open-door' style[15].

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[13] Foster para. 45
[14] Select Committee para. 21
[15] ibid. para. 35

4.4 The importance of organisational culture is already deeply understood by the Committee on Standards in Public Life. Promoting the principle of responsibility as defined above would strengthen the Committee's work in this area[16].

5.0 Without the Responsibility Principle, there is the risk that holders of public office, even at the highest rank, may bring themselves into disrepute with the public they serve.

Contrast, for instance, the depiction in both Reports of the failure in responsibility of officials within LSC and DIUS with the example that the unpaid Governors of colleges were simultaneously setting them.

6.0 The Foster Report and the Select Committee Report show that the principle of accountability facilitates enquiry when things go wrong.

They also show that the liability to be held accountable is no guarantee that individuals will not make the kind of mistakes that lead to scrutiny of their actions.

I have argued that both Reports also point towards a principle of responsibility which could have significant, widespread, beneficial impact if adopted in all areas of public life.

It would be good if a gain as considerable as this could come from the breakdown as clamorous as that of the BCF programme.

Chris Thomson
Principal

[16] I note particularly Getting the Balance Right: Implementing Standards of Conduct in Public Life, p. 5, "However intangible the issue of culture appears, the Committee believes that it is critical to delivering high standards of propriety in public life in a proportionate and effective manner." And even more pertinently in the present context: "In our Issues and Questions Paper we noted that organisational culture, which concerns the basic assumptions and beliefs that are learned, shared and often taken for granted in an organisation, is an often overlooked key to understanding decision-making." ibid. p. 83