

# Review of Standards of Conduct in **Executive NDPBs, NHS Trusts and Local Public Spending Bodies**

## *Summary of the Nolan Committee's Fourth Report on Standards in Public Life and List of Observations*

### **Executive Summary and List of Observations**

1. This is our fourth report since the Committee on Standards in Public Life was established in October 1994. It is, however, the first report to fulfil our intention to return to ground previously covered. It reviews progress on the implementation of our recommendations relating to 'quangos' (executive NDPBs and NHS bodies) from our first report; and those from our second report relating to local public spending bodies (higher and further education institutions, grant-maintained schools, training and enterprise councils and local enterprise companies, and registered housing associations (now known as registered social landlords)).

2. The review covers over 5,300 such bodies with over 90,000, largely voluntary, board members responsible for spending over £81 billion a year, which is about 6 per cent of all Government expenditure.

3. We will, in due course, return to the other areas from our first report not covered by this review. We have not felt able yet to undertake a review of our recommendations on Members of Parliament, because of the considerable number of new MPs returned at the May 1997 General Election, as well as the unresolved case of Mr Neil Hamilton being heard by the House of Commons Select Committee on Standards and Privileges. The standards of conduct of Ministers and civil servants, and the related question of the possible politicisation of the civil service, have been much debated. We will therefore be reviewing separately progress on recommendations relating to Members of Parliament, Ministers and civil servants.

### **First Report**

4. In the section of our first report which looked at executive NDPBs and NHS Trusts, we focused on the areas of greatest concern, in particular the questions of :

- whether appointments to quangos were being unduly influenced by **party political considerations**;
- whether there was sufficient **openness** both in the appointments process and in the transaction of business;
- whether enough was being done to maintain **standards of propriety**.

In all, we made 23 recommendations in respect of appointments and probity.

## **Second Report**

5. We considered that many of the principles outlined in our first report were equally applicable to local public spending bodies in our second study, although they should be interpreted in different ways to reflect varying circumstances. We made 50 recommendations. Some were addressed to particular sectors; others were general. The evidence we received led to our identifying a number of common themes:

- support for the principle of unpaid voluntary service by board members of the local public spending bodies;
- less detailed monitoring and interference; coupled with more explicit regulation;
- a limit of four years on terms of office, with re-appointment for third or subsequent terms being the exception rather than the rule;
- the need for further development of independent complaints adjudication procedures;
- providing external assistance in resolving internal disputes;
- the establishment (where they do not exist) of codes of practice on whistleblowing.

## **How we undertook the study**

6. Questionnaires were sent to executive NDPBs; the three regional health authorities in which NHS Trusts have a role in their own appointments; Government Departments; the bodies with funding and regulatory oversight for each sector of local public spending body; as well as a number of organisations who have an interest in our work. The questionnaires took as their starting point the Committee's recommendations and the government's formal response, and sought to determine the extent to which practice has been modified in the light of them.

## **Conclusions**

7. We have concluded that considerable and welcome progress has been made. All of our substantial recommendations on these areas were accepted, and the funding and regulatory bodies have worked to implement them. Accordingly, in this report we have not made further recommendations. Instead, we have sought to highlight the many instances of good practice. We have also noted a number of points of weakness, primarily relating to the way in which standards of conduct are communicated to staff, and understood by them.

8. Most of the bodies or sectors which we studied have published codes of conduct or best practice, as well as guidance on how they should be applied. We commend that approach. But there is evidence that funders and regulators do not monitor formally whether and how these voluntary codes have been adopted by institutions. More important, there is evidence that staff are not fully aware of their individual responsibilities for standards of conduct; and too little has been done to publicise whistleblowing procedures.

9. There is also some evidence that some sectors are implementing the recommendations fairly slowly. This foot-dragging is worrying. The Government has in mind changes which will make some of our recommendations mandatory for these bodies. It would be far better for the bodies to adopt those recommendations voluntarily rather than have change forced upon them.

10. In public appointments, the principle of 'proportionality' (that is procedures appropriate to the nature of the post and the size and weight of its responsibilities), has not properly been taken into account. Practical implementation of the procedures has become too cumbersome, a point recognised by the Commissioner for Public Appointments. Departments and executive bodies should plan their appointment procedures well in advance so that extended vacancies are avoided and candidates do not become frustrated or demotivated by being kept waiting for news. It should be, after all, a common courtesy of good government. While we can say that the public service has responded positively, and in some cases enthusiastically, to our recommendations, there is still much work to be done.

11. We believe it is essential that the standards set out in our first two reports on appointments procedures, openness, codes of conduct, training, and whistleblowing should apply in full to these bodies, although practice should be proportional to the size and adapted to the nature of the bodies.

## **Executive NDPBs and NHS Trusts**

12. We make the following observations relating to executive NDPBs and NHS Trusts:

O1. Departments and executive NDPBs should exercise some discretion so that advertisement of posts complements other methods available to identify a wide field of candidates: advertisement should not be the only vehicle for appointments.

O2. It is essential that Departments and executive NDPBs should apply the principle of proportionality to the appointments procedure. Any advice and guidance the Commissioner for Public Appointments can give in this respect would be most welcome. It is, nevertheless, important that correct procedures are adhered to, and that appointments are made on merit. Proportionality should not be an excuse for sloppy procedures.

O3. We would like to see greater consultation between executive NDPBs and their sponsoring Departments when defining the task and qualities sought for all public appointments.

O4. The Commissioner for Public Appointments should look again at the definition of 'political activity' to see whether it includes all "significant" political activity.

O5. It is important that all Departments, executive NDPBs and NHS bodies should institute codes of practice on whistleblowing, appropriate to their circumstances, so as to enable concerns about malpractice to be raised confidentially inside and, if necessary, outside the organisation.

O6. NHS Trusts should have a degree of flexibility to appoint candidates who work within the area served by a particular NHS Trust, but who live outside that area, provided the appointment can be justified in public.

O7. The rule that re-appointments to the same post should not be automatic should be clarified so that Departments and executive NDPBs are aware that candidates for re-appointment do not have to undergo the whole appointment process.

O8. All executive NDPBs and NHS Trusts should consider holding an annual public meeting.

### **Local public spending bodies**

13. We make the following observations about local public spending bodies:

O9. The funding and regulatory bodies should monitor and report on the ways in which good standards of conduct are communicated to staff, and understood by them.

O10. The bodies responsible for institutions within the further education sector should look again at the recommendation which proposed a system of independent review of disputes.

O11. Responsibility for TECs should be delegated to Government Offices for the Regions so as to allay fears of ineffective management and accountability caused by the distance between government and the client.

O12. The Government should undertake an urgent review of the audit procedures within TECs and LECs, in consultation with the relevant funding and regulatory bodies.

O13. The TEC National Council should devise suitable complaints procedures and ensure compliance by TECs in England and Wales.

O14. The funding and regulatory bodies should encourage more openness within TECs and LECs, and should monitor and report on the situation.

O15. The Government should extend the Housing Ombudsman's jurisdiction to allow him to address complaints against Registered Social Landlords from neighbours.

O16. The Government should establish an Independent Housing Ombudsman for Wales at the earliest opportunity.

### **Common Themes**

14. There is a number of issues which apply to all the bodies covered in this review which have force in more than one area of the report.

O17. Representative bodies should ensure that whistleblowing procedures are in place within institutions and allow staff appropriate external avenues in which to raise concerns about malpractice.

O18. Responsible departments should disseminate guidance on good practice about payment of expenses to board members.

O19. All members of boards, whether elected or appointed, should be appointed for fixed terms, and such terms should not normally exceed four years.

O20. It is important that rules governing conflicts of interest are introduced across all sectors considered in this report.

O21. The funding and regulatory bodies should standardise governance information within annual reports in all sectors covered by this report.

O22. All organisations should re-examine their arrangements for publicising codes of practice, and whistleblowing arrangements, to ensure that staff are left in no doubt about these.