



Cabinet Office

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Lord Bew
Chair of the Committee on Standards in Public Life
Room GC05
1 Horse Guards Road
London
SW1A 2HQ

24 June 2015

Dear Lord Bew,

I welcome the Committee's consideration of ethical procurement issues in its report "Ethical standards for providers of public services" which represents a valuable contribution to this debate. I believe it is essential that public services carried out by third party providers should be performed to the same standards of integrity, honesty and fairness as those performed by the public sector.

The importance that we attach to ethical behaviour was demonstrated when, in 2012, issues of suspected unethical behaviour arose at the Ministry of Justice. Swift corrective action was taken, with plans for corporate renewal being put in place with suppliers involved.

The current legal and policy framework provides a strong basis for addressing unethical behaviour. Under the rules governing public procurement the Government is required to exclude from future procurements suppliers that have been convicted of a range of criminal offences, including bribery, fraud and corruption. Additionally suppliers may be excluded from bidding where it can be demonstrated that they have committed an act of grave professional misconduct, which can include exclusion for unethical behaviour.

To assist suppliers Crown Representatives will, as the Committee recommends, ensure that they champion high ethical standards in their relationship with strategic suppliers. Crown Representatives will also, as the Committee recommends, provide specific advice to Ministers on this aspect of their relationship with strategic suppliers. The Cabinet Office monitors supplier performance on ethical issues, as highlighted to the PAC in November 2013.

I also recognise the importance of transparency in ensuring confidence in high ethical standards in outsourced public services. To that end, on 24 March 2015, we published a set of general transparency principles that require public procurers to proactively disclose information on contracts that may previously have been withheld on grounds of commercial confidentiality. This new presumption in favour of disclosure requires departments to set out in advance of a contract award, the types of information to be disclosed to the public, and then publish that information in an accessible format.

Alongside the actions we have taken in relation to suppliers, I recognise the need for Government procurers to act ethically – and for ethical considerations to be communicated to them in a consistent and clear manner. I am pleased to confirm that the Committee's recommendations on ethical awareness have already been implemented.

The relevant chartered institute for the procurement profession, the Chartered Institute of Procurement and Supply (CIPS) has developed an Ethical Procurement and Supply e-learning module. Civil Service Learning and the Crown Commercial Service encourage government procurement staff to complete this ethical awareness e-learning to gain certification of achievement. Completion of the CIPS ethical procurement module is mandatory for those CIPS members holding Chartered status.

The CIPS learning has been added to the procurement professional curriculum and is available via the Crown Commercial Service Learning Hub, open to all those working in a commercial role. This training complements the existing products available on the curriculum, such as fraud e-learning and competition e-learning developed with the Competition and Markets Authority. The Government Commercial Function is developing a new syllabus and curriculum for the commercial profession, of which the CIPS ethical learning will form a module as part of continuous commercial development.

The professional curriculum is aligned to the procurement professional skills and competencies framework that has been adopted by all Departments. The framework requires staff to be aware of organisational policies and accountability to ensure fair and open competition and ethical processes.

Ethical aspects of commissioning also feature in peer-led discussions throughout the Commissioning Academy programme.

With regard to your recommendation on addressing the Seven Principles of Public Life in contractual arrangements, I agree that the Principles provide valuable clarity on the ethical standards expected of public office holders and that third party providers should be aware and supportive of them. But I believe the actions we are taking mean that we do not need to contractualise the Seven Principles; and I have concerns that in many cases this would not be practical. For example, the first principle – “Selflessness” – requires that “Holders of public office should act solely in terms of the public interest”,

but this potentially conflicts with company directors' legal requirement to act on behalf of their shareholders. Also, the positive personal behaviours set out in the Principles are unlikely to be capable of contractual application without a degree of subjectivity in a contracting authority deciding whether a particular behavioural Principle has been sufficiently demonstrated. This carries the risk of attendant legal challenge, for example should a contract be terminated for perceived failure to adhere to the Seven Principles.

Government takes ethical behaviour seriously and we greatly value the Committee's on-going work in ensuring that all those involved, whether procurer or supplier, are aware of the importance that we associate to best practice in this regard.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew Hancock', with a long, sweeping flourish extending to the right.

THE RT HON MATTHEW HANCOCK MP