

29 May 2018

**INDEPENDENT COMPLAINTS AND GRIEVANCE POLICY (ICGP) STEERING GROUP
CONSULTATION ON DRAFT BEHAVIOUR CODE**

SUBMISSION FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

SUMMARY

- The Committee on Standards in Public Life (“the Committee”) welcomes the consultation by the Independent Complaints and Grievance Policy (ICGP) Steering Group on a draft Behaviour Code which the Committee notes is designed to set standards to underpin the whole independent complaints and grievance policy. The Committee welcomes the opportunity to comment.
- The Committee’s 2013 report *Standards Matter* sets out what a good code of conduct should include and we recommend that report to the Steering Group.¹ The relevant chapter is attached to this submission at Annex A for ease of reference together with information about the Committee and the Principles of Public Life at Annex B.
- We welcome the values expressed in the Code and agree it is a good first step in setting out the values and behaviours expected of those working in and visiting Parliament. However, the Code as currently drafted reads more as a vision statement than a Behaviour Code. Additionally, some of the behaviours listed are not behaviours as such; the second ‘behaviour’ in particular would be stronger if framed in terms of ‘we will act in all circumstances in a manner that does not abuse our power’, and gave examples in some accompanying guidance.
- The draft Code is missing the guidance on how the expected behaviours will be demonstrated and tested. To be effective, the Code needs supplementary guidance with examples of what the expected behaviour will look like, so that individuals can test their own behaviour and others may judge what is, and what is not, appropriate behaviour. Brief examples and descriptions are particularly important, especially in grey areas where the

¹ [Standards Matter: A review of best practice in promoting good behaviour in public life 2013](#)

application of principles and values may not be clear cut. Individuals may need more help to understand the context and the practical implications. This does not mean that the Code needs to detail every possibility or run to many pages, and we would strongly warn against too long a document that means it is unlikely to be read and is too mechanistic but some guidance is necessary to supplement and clarify the seven drafted behaviours and to point people in the right direction when they are unsure.

- We recommend the Code should be personalised to help increase its impact, so replace 'we' with 'I' throughout the draft. This is particularly important given that the Code is intended to cover not just those working in Parliament, but also those visiting the Parliamentary estate. This amendment would also help reinforce a key principle that the maintenance of high standards is primarily the personal responsibility of individuals. The use of 'we' also has a tone of imposition from above.
- To ensure that it is clear that the Behaviour Code fully embraces diversity, we would suggest an amendment to the first statement, so that it reads (addition in bold):
 - *We respect and value everyone, **regardless of their individual differences** and regardless of the different roles they have.*
- We recommend a statement is added to the effect that the senior management groups of the Houses and all MPs and members of the House of Lords have signed up to the Behaviour Code and have committed to abide by it.
- We suggest that the two behaviours identified in the 6th Behaviour (*we take responsibility for our own behaviour and speak up about any unacceptable behaviour we see around us*) are separated into two behaviours for clarity.
- Finally, although the provision of codes of conduct is an important tool to help improve ethical standards and increase awareness of the Principles of Public Life and of an institution's own values and principles, this provision is still not enough on its own. We would warn against using the Code as a set of rules as a means of compliance. The Code needs to be a way to inspire an ethical culture in Parliament. In all organisations, the promotion and maintenance of high standards of conduct requires high standards to be embedded throughout an organisation and its processes, to develop a culture where everyone takes ownership of high ethical standards and where there is regular monitoring of whether the standards are being met.

FULL SUBMISSION

Introduction

1. The Committee on Standards in Public Life (“the Committee”) welcomes the consultation by the Independent Complaints and Grievance Policy (ICGP) Steering Group on a draft Behaviour Code and is pleased to have the opportunity to comment.
2. The Committee notes the Code is designed to set standards to underpin the whole independent complaints and grievance policy, and to be a statement of how people are expected to behave whether they work for Parliament or are visiting.
3. We would encourage the ICGP Steering Group to consider our predecessor’s 2013 report *Standards Matter* which sets out key features of good Codes of Conduct and would provide a useful test against which to measure the draft Code. We also recommend protocols that exist between members and officials in local government as helpful examples of well developed codes.
4. Whether consciously or not, the behaviour of leaders strongly affects the culture of any organisation. We would therefore recommend the addition of a statement to the Code confirming that senior leadership groups in Parliament, all MPs and all members of the House of Lords are committed to the Behaviour Code.
5. We have commented on your specific questions below.

Give us your thoughts on the behaviours included in the Code. Is anything missing?

6. The Committee generally welcomes the behaviours identified in the draft Code, whilst noting some points below. The Committee is the custodian of the Principles of Public Life (annex A) which we consider to be the overarching articulation of high standards from which an ethical culture should flow. Codes of conduct are one of the tools to enable that to happen, but we consider codes need to reflect the needs of individual organisations. We are therefore of the view that the ICGP Steering Group and those whom it has consulted are best placed to identify the key types of behaviour required for Parliament.
7. More generally on the language used, we would suggest that ‘I’ replaces ‘We’ throughout. This firmly places the responsibility on the individual and would help those visiting Parliament understand that the Code applies to them as visitors, as well as all those working in Parliament and on the Parliamentary estate. This also reinforces a key principle that high ethical standards and behaviours are a personal responsibility and it is up to individuals to take the Behaviour Code seriously. The use of ‘we’ also has a tone of imposition from above.
8. To ensure that it is clear that the Behaviour Code fully embraces diversity, we would suggest an amendment to the first statement, so that it reads (addition in bold):
 - *We **[I]** respect and value everyone, **regardless of their individual differences and regardless of the different roles they have.***

9. The Committee views the Nolan Principle of Leadership as key in establishing a robust ethical culture. The impact of leaders is highly influential. Leaders are role models and their behaviours are (a) interpreted by staff as what is acceptable behaviour and (b) bed down beliefs about what is important. We therefore suggest adding to the Behaviour Code a statement to the effect that the Code is endorsed by the most senior management across the different groups in Parliament and that those individuals are committed to exhibiting such behaviours.
10. We are concerned that some of the behaviours listed are not behaviours as such; the second 'behaviour' in particular would be stronger if framed in terms of 'we [I] will act in all circumstances in a manner that does not abuse our power' and gave examples in some accompanying guidance. What's important is how people behave rather than simply a recognition of not abusing any power they may have.
11. We also suggest separating the points in the sixth draft behaviour: *We take responsibility for our own behaviour and speak up about any unacceptable behaviour we see around us.* There are two distinct behaviours identified here and it would be better not to conflate them, but to be clear about what's expected of individuals in respect of each. This would also make for clearer guidance for those behaviours.

To help explain the Code to a wide variety of people, how would you describe what these behaviours should look or feel like?

12. We have presumed that by asking the question *how would you describe what these behaviours should look or feel like*, the ICGP Steering Group intends that the behaviours as drafted should be supplemented by guidance explaining how the context and application of those behaviours and give examples.
13. We welcome this approach as the Behaviour Code as drafted is not enough on its own as a guide for behaviour in everyday life. As drafted, the Behaviour Code sets out key principles of good conduct, but they need to be supported by giving brief examples of how those principles look in practice. In our 2013 report, *Standards Matter*, we discuss how Principles and Codes supplement each other, the importance of codes in giving guidance and helping individuals understand what it expected of them, and helping them translate general values and principles into specific behaviours and actions by setting the context and providing examples.
14. Rules set out the climate in which we all operate and so obviously rules influence our behaviour. But, ultimately, it is **people** that choose how to behave. Principles and codes are therefore both needed: no code is able to remove the need for and the responsibility of individuals to reflect on their behaviour and whether it meets with the overarching principles, even if it seems to comply with the letter of the rules.
15. People need to understand what the Principles and key behaviours mean in practice. We would caution against a long, detailed document which runs the risk of too mechanistic approach and used as a set of rules for inflexible compliance, or of people not reading the document because it is too long. However, notwithstanding this warning, we would

encourage the addition of some brief examples of what the right behaviour looks like so as to help people when they are not sure which direction to take for themselves or when they see behaviour in others of which they are uncertain. We recommend the guidance in our predecessor's report, *Standards Matter*, and have attached the relevant extract at annex A. Examples and descriptions of behaviours are particularly important, especially in grey areas where the application of principles and values may not be clear cut. Codes can clarify expectations and give help to individuals to understand the context and the practical implications of different behaviours.

16. It may be helpful, for example in relation to the first and fourth draft Behaviours (*respecting and valuing everyone and acting professionally*) to add guidance about what this means in practice i.e. am I considering people equally without favouring one over another; am I asking someone to do something that is unreasonable;
17. Essentially, the Code needs to add guidance describing behaviours that is: proportionate, gives enough detail without being too elaborate so that the codes are ignored or forgotten; relevant to the many roles within Parliament and to visitors to Parliament; clear about the consequences of not complying with the code; framed positively; personalised; and above all reinforced by positive leadership.
18. We are fully aware of and understand the particular challenges facing the ICGP Steering Group as it needs to develop guidance for these drafted behaviours that are concise whilst relevant for the various different groups and relationships that exist in Parliament, whilst also bearing in mind the different roles that MPs and members of the House of Lords may have, including representative, legislator, select committee member and employer. It is especially important that the behaviours work for the relationships between Members of both Houses and their staff/researchers, and the staff of the Houses. Each set of groups have important but distinct roles.
19. The complexities of the relationships within Parliament, the multi-layers and varying employers means that explaining what behaviours should look is not easy, but even more important. During the course of our review of local government ethical standards, we have come across protocols on Member/Officer relations which set out advice to members and officials in local government on how to conduct that relation in a way that allows both to do their jobs and enhances the reputation of the organisation. We suggest to the ICGP Steering Group that they might like to look at, for example, [Staffordshire County Council's Protocol](#) as a helpful example of a well developed code.

Is there anything else you would like to raise with the Steering Group about bullying and harassment, including sexual harassment?

20. The Committee on Standards in Public Life does not consider individual cases, so has no comment to make on specific cases that have emerged on harassment in Westminster. However, we understand that the new Behaviour Code is intended to underpin the whole independent complaints and grievance policy. With that in mind, the Committee looks forward to seeing a final policy and scheme implemented in a timely manner which is fair, reflects best practice, and is a process in which those who have made complaints, or are the subject of specific complaints, as well as the general public, can have trust.

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Extract from [Standards Matter, 2013, Chapter 4](#),

Codes of conduct

“Principles alone are often not enough as a guide for behaviour in everyday life. Research undertaken with the public demonstrates that there can be genuine disagreement about what they imply in specific circumstances.

Organisations need their ethical principles to be elaborated in codes which contextualise and expand on their practical implications. Holders of public office can then be clear what is expected of them, particularly in grey areas where the application of principles may not be self-evident. Those holding them to account can also be clear. The then Archbishop of Canterbury expressed the importance of codes of conduct during a House of Lords debate when this Committee was first set up, as follows:

“But since the right motivation is not enough by itself, all of us need guidelines and codes to help us realise the good intentions in practice. Such codes are vital for institutions as well as individuals, mobilising authority and peer pressure behind ethical norms and translating general values into specific expectations.”

Codes should never, however, override principles. Behaviour can technically be within the rules set out in a code and yet still offend against underlying principles and values as judged by peers or the general public (whose views may, of course, differ). Adherence to a code of conduct may not, therefore, always provide an adequate defence of poor behaviour. Nor should it. The lack of transparency of financial loans to political parties, for example, while technically within the political donation rules of the time offended against the principle of openness which the rules had been designed to reflect. This was readily acknowledged by the political parties themselves when the practice came to light in 2006.

It may sometimes seem unfair to those who believe they have followed the letter of the rules to be judged subsequently to have been offended against principles. This can give rise to the perception that what is appropriate behaviour is being reinterpreted after the event. The alternative, however, would be to absolve people from personal responsibility for moral judgements about their own behaviour. It might also create an incentive to expand codes to attempt to cover every eventuality. Neither would be desirable.

Principles and codes should therefore be viewed as complementary rather than as alternatives. It is essential to get the right balance between the two. That balance may change over time.

Codes of conduct can be powerful. They give guidance in clarifying the right thing to do for those who are unsure. They can encourage and support those doing the right thing; and they can act as valuable contemporaneous prompts in promoting positive behaviour. Interestingly, some recent research suggests that people for whom the Ten Commandments have no religious significance still cheat less frequently when they are asked to recall them before completing a task.

To be effective codes need to be:

Selflessness | Integrity | Objectivity | Accountability | Openness | Honesty | Leadership

- seen as **relevant every day** and not exceptional.

- **proportionate** – giving enough detail to help guide actions without being so laborate that people lose sight of the underlying principles. Over-elaboration can lead to codes being resented and ignored, or encourage creative compliance. Good practice suggests that every code should be reviewed from time to time with this in mind. The Commissioner for Public Appointments, for example, has replaced a 120 page code of practice for ministerial appointments to public bodies with a simplified, risk-based, eight page version. The Public Appointments Commissioner for Scotland recently replaced a code of practice of over 80 pages with a plain English version of 25.

- **adapted to the needs and context of each organisation.** The Civil Service Code, for example, elaborates on four key values to set out the behaviour expected of all civil servants.

- **clear about the consequences** of not complying with the code, both for the individual and others. One study has shown that people are much less likely to lie to someone else for personal financial gain if the impact on other participants is high. This implies that inappropriate behaviour may be discouraged if its possible consequences for other people are made explicit.

- wherever possible, **framed positively.** A trial by the Cabinet Office’s Behavioural Insights Team supported experimental findings that making people explicitly aware of other people’s good behaviour is more effective than telling them what not to do. The trial involved a number of different messages included in letters sent to 140,000 tax payers. Letters informing recipients that nine out of ten people in their local area had already paid their tax resulted in a 15 per cent increase in payments compared with the control group.

- **personalised.** Active personal commitment can have a big impact on encouraging people to behave in the right way. The new NHS standards are framed in the form of personal commitments: “As a member I commit to...”.

- **reinforced by positive leadership** and embedded in the culture of the organisation.

The last point is critical. Research by the Institute of Business Ethics (IBE) indicates no direct relationship between the existence of codes and actual standards of behaviour in companies in the private sector. There are numerous examples of organisations with apparently rigorous ethical codes still demonstrating unacceptable behaviour. Leaders need to understand, use, monitor, regularly re-evaluate, and most importantly exemplify codes through their behaviour.”

Committee on Standards in Public Life: Background

The Committee on Standards in Public Life is an independent, advisory Non-Departmental Public Body (NDPB). The Committee was established in October 1994, by the then Prime Minister, 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.

The Principles of Selflessness, Objectivity, Integrity, Accountability, Openness, Honesty and Leadership remain the basis of the ethical standards expected of public office holders and continue as key criteria for assessing the quality of public life.

The remit of the Committee excludes investigation of individual allegations of misconduct.

On 12 November 1997, the terms of reference were extended by the then Prime Minister:

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

The Committee's terms of reference were further clarified following the Triennial Review of the Committee in 2013. The then Minister of the Cabinet Office confirmed that the Committee:

should not inquire into matters relating to the devolved legislatures and Governments except with the agreement of those bodies. Secondly the Government understands the Committee's remit to examine "standards of conduct of all holders of public office" as encompassing all those involved in the delivery of public services, not solely, those appointed or elected to public office.²

Committee membership as at May 2018

- Lord Bew, Chair
- Rt Hon Dame Margaret Beckett DBE MP
- Simon Hart MP
- Dr Jane Martin CBE
- Professor Dame Shirley Pearce DBE
- Jane Ramsey
- Monish Shah
- Rt Hon Lord Stunell OBE

The Committee's work is supported by a Research Advisory Board.

² [Hansard 5 Feb 2013 : Column 7WS](#)

The Seven Principles of Public Life

The Principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.