***Standards Matter 2***

***Academics Roundtable***

***1 April 2021***

**DRAFT TRANSCRIPT**

1. **Lord Evans:** Thank you all for joining us today for this academics' roundtable for our Standards Matter 2 review.I am sure you are all very well acquainted with the Committee but a brief few words of introduction, the Committee's role is to advise the Prime Minister on arrangements for upholding ethical standards of conduct across public life. The Committee first articulated and owns the Seven Principles of Public Life. We are not a regulator. We do not do individual case work. But we make recommendations and do reports on the development of the arrangements for regulating ethical standards across public life.
2. For the 25th anniversary of the committee a couple of years ago, we commissioned a piece of academic work mapping the quite complex tapestry of standards bodies that exist in the UK and have grown up over decades. I think it was the first time that that had been done in a consistent way. And we felt that it might be useful to follow that on with some work to look at the effectiveness of the overall system, and also to look for areas where there might be recommendations for improvement, or areas of good practice to highlight. So that's the process that we are engaged in at the moment. We launched the review in September. We have had a lot of replies to the public consultation which have been very helpful to us. Thank you very much to those of you who have put in submissions. And if anybody wishes to add to or to put in a submission for the first time then please feel free to do so.
3. Today we are seeking views from academic experts in this field on two issues, first of all the place of ethical standards in a liberal democracy. And secondly on the effectiveness of our standards regulators.
4. With me from our side is Dr Jane Martin, who is helping to lead on the inquiry and is one of the independent members of the committee. Also, Monisha Shah who is an independent member of the committee. Mark Philip who is our academic adviser, chair of our academic advisory board and members of our secretariat who are helping us to steer the right course.
5. Everyone I think will have the opportunity to speak this morning. Jane and I will invite contributions as previously agreed to each topic on the basis of the preferences that people have emailed over the last few weeks, we've got a limited time available so I would urge people to stick to key points, otherwise we're going to run into time problems, but we are hoping that at the end of the formal elements of this there will be an opportunity during each session to invite comments from the floor, in which case I invite you to use the 'hands up' button, and we'll try and get around to everybody. This is not going out live but there will be a transcript taken, and we will check with participants before publication.
6. So I think that is all I need to say, by way of introduction. And so I think we can move on to the first session on the importance of ethical standards in a liberal democracy, and I'm going to invite initially Sarah Birch, and then Sam Power. Let's start with Sarah thank you. I also have to say that Maggie who does our media and public affairs is putting out live tweets during this but it is not going out as a broadcast. So Sarah I invite you to start, thank you very much.
7. **Professor Sarah Birch:** Thank you. I'm delighted to be here and it's a real honour to be speaking first. I think ethical standards are what makes a liberal democracy a liberal democracy, it's a liberal component in liberal democracy. In other words, it is necessary to uphold certain standards of treating everyone equally, observing the law and behaving in an ethical manner. If a democracy is going to be a liberal democracy as opposed to some other variety of democracy that doesn't meet all the standards that we associate with liberal democracy. So that's the short answer. And the longer answer is it's not just a matter of institutions. It's also a matter of culture. And I think the challenge really is to try to find a way of getting the institutions to work in practice in the culture, marrying up the formal institutions with the informal culture, both in society as a whole and also in government and I would say that is the main challenge today.
8. **Lord Evans:** Thank you very much. Sam Power, I would invite you to provide your thoughts for our first session which is on ethical standards and liberal democracy.
9. **Dr Sam Power:** I just caught the end of what Sarah said and I would broadly echo exactly her comments which is that in ethical standards and liberal democracies there are two things to consider, and the thing of primary importance is that generally these things run on both formal and informal rules, and it's actually getting the adherence to the informal rules and norms and the way in which that norm diffusion then follows through into society. It's getting that right that is of the utmost importance. And the one thing that we know about when standards are seen to be broken is that in many liberal democracies this does genuinely affect trust in government, and it genuinely affects trust in things like democratic practices. So my position on these things is that the importance of ethical standards, the importance of high ethical standards is precisely that, but actually it's much less a sense of getting the formal rules right but trying to understand where the informal rules are being broken and how we can work to get greater adherence to these norms, processes and conventions.
10. **Lord Evans:** Thank you. Leighton Andrews.
11. **Professor Leighton Andrews:** I think for a long time we had a consensus on ethical standards in a liberal democracy and they were known as the Nolan rules. And that was quite an achievement I think. There were particular historical circumstances - we might come on to that - as to why those rules came into being, they didn't come into being uncontested, there were challenges about them at the time. But they came to be known and endorsed, replicated in a variety of codes, and they were an underpinning for our form of a liberal democracy. Picking up on things said by Sarah and Sam, I think culture and institutions matter. I think that ethical standards as Sam says matter for trust in democracy. And I also think we have to talk about leadership, and this is something I know Lord Evans has talked about in his recent lecture and other initiatives as well, because cultures within institutions are very much dependent on the lead that is set within institutions. And if you have a situation where you have a leader, who has been found to be in breach of accepted codes of behaviour, time and again, and regularly on almost a weekly basis breaks the Nolan principle of honesty, then I think that tends to set the tone. And in recent years we've talked a lot about fake news. I think I'm afraid that we're now heading into an era of fake norms, where the norms are encoded, but they're breached regularly.
12. **Lord Evans:** Thank you very much. I'm going to open the conversation to the floor. Certainly from our point of view, and Jane may have a view on this, it will be very helpful to get your view on the extent to which you think that the public - and this is an unanswerable question - but is there an expectation that these standards, the Nolan Principles, should be upheld and is that still the case, or has there been any change in that. And also, if we are talking about the importance of culture, many companies are working hard on culture change and there are lots of people making their living by advising companies on what they can do about this, but it's a very different challenge if you are talking about that within the political sphere where you're not talking about employees you are talking about people who have their own mandate from the voters. So what, if anything, is a sensible way of trying to think about inculcating a culture within a political context, particularly a contested political context. Who would like to come in on that or anything else that has been said so far? Gillian.
13. **Professor Gillian Peele:** I do think that that is a real problem about changing a culture, obviously, but sustaining a culture of standards is also important, and leadership is absolutely vital to that, it sets the tone and if you obviously have a leader at the very top who might be suspect on those issues, then you've got a problem. But it is something which I think goes much further down in institutions. There has to be regular training and initiation into what the standards are, what standards are expected and the practical meaning of those standards in everyday situations. I think also that culture and changing a culture, sustaining a standards related culture, is important and but very difficult, particularly in closed situations, where for example the House of Commons for a long time, the House of Lords, perhaps inside government, inside departments, where there isn't a stronger light being shone on the way relationships develop and attitudes. So I think actually trying to measure when a culture has changed or even ascertain when it's changed or is in danger of being undermined is very difficult.
14. **Lord Evans:** That's interesting and do you have a view on the extent to which the recent change, the light that has been shone in Parliament, through both the expenses scandal and also more recent reports on bullying and harassment, does appear to have provoked some institutional change. Do you think that is significant?
15. **Professor Gillian Peele:** Yes, I think it's extremely significant. With the expenses scandal, obviously one had a very unfriendly culture in terms of the attitude towards the Fees Office which was simply accepting bills when they were put in. But on harassment and bullying again, these are sort of situations in which you don't, until recently, regularly find out what's going on until it's too late. So I think the changes have been for the better and I think that there has been a major change there. Whether you can get the same kind of change inside of departments in terms of relationships between ministers and civil servants, I think that's perhaps a little bit more difficult. So I think there has been a change but also you've got the other big factor of the political parties themselves and their attitude towards some of these changes and some will buy into it and some won't, and maybe there's a change every time there's an election and a new cohort of MPs.
16. **Lord Evans:** Thank you. Yes, there's an interesting question about induction there in that context. Heather Marquette.
17. **Professor Heather Marquette:** I just wanted to follow on why this matters, and then also your question about public expectations. The points about leadership, I think, are incredibly important, and the reason why is because of what it means downstream. Sam mentioned trust, and the importance of trust in a liberal democracy for things like public consent. So we see this for example around the Covid response, and the measures that have needed to be taken. Without trust, then you see a decline in public consent. Without trust also, it makes it really difficult for politicians and for the government in particular to feel like they have the room for manoeuvre when it comes to admitting failure, or learning and adapting and so on. It also matters for public servants as well, if they see that there's double standards, and that the rules apply to them, but not to not to others, then they might start questioning why they don't apply and that would be a very bad position. And finally for the public, if there's a sense of impunity, that people get away with doing things, then that also might decrease the public's willingness to follow the rules. One of my students set up a magazine when he was a student in Nairobi, called Impunity Watch. And this is something that he's found in the last year with the UK, he suggested there could be one here. It's also about decision making, the reason why the Nolan Principles in their entirety are so important, it's also because it's about facilitating good decisions and decision making is really important for effectiveness of what public servants do, as well as for their responsiveness. The last reason I think it matters is also global. So, I know you've had evidence from Liz David-Barrett and others talking about global reputation, the downgrade to the UK’s Moody's rating, foreign direct investment and so on. It also matters for national security, as well. If you have a system where people are seen to be able to get away with things without sanction, then it creates real serious risks for national security because it suggests that people can be bought without consequences.
18. When it comes to public perceptions, in conversations that I've had with others, we've talked about whether or not the most recent election results suggest that rule breaking behaviour is being rewarded at the ballot box and whether the public care or not. And in a sense, whether the public care or not is a concern for ensuring that rules aren't broken. We shouldn't be led by whether or not the public expects norms should be upheld, but they should see the norms being upheld and that will presumably affect how they feel about it. I'm sure there are others who could say a lot more on public perceptions in the UK than I can though, so I'll hand over.
19. **Lord Evans:** Thank you, that is a really important point because here we are 12 months, 15 months into the current government there has been a lot of media noise about standards issues in terms of recruiting, in terms of procurement, in terms of Barnard Castle, etc etc etc, as well as 130,000 deaths, and the government are well ahead in the polls. So you have to ask whether the public really do much care about this, or whether it's an issue which those of us who are standards focused think is very important and that most voters couldn't care less. Which would be an uncomfortable situation, certainly for our committee, but I do think it is worth challenging ourselves on it, because people being polled think this government's doing just fine, thanks a lot. Sam Power.
20. **Sam Power:** I'll take up that I suppose straight away. I think that if you think about the Nolan Principles and think about very specific things and ask 'Do the public care', I think that the answer that you'll get is, sort of, well, no. I would suggest that the vast majority of the public wouldn't be able to name you the Nolan Principles or talk about that in the very specifics. But I think that generally if you look at the research, the public do care when rules and norms are broken or seem to be broken. And we can see this in various research, most recently done by Richard Rose which looked at different ways in which we might consider that the Nolan Principles - I don't know if they use the term the Nolan Principles - but the ways in which the Nolan Principles might be broken, not just in the UK, in places like France and Spain, things like money for favours and breaking promises once you're in government that you made during an election campaign and sex scandals, for example. And they found that actually all these things do lead to a decline in trust in institutions. So I think if you ask very specifically do the public care about standards and you ask them to rank that on 'Do you care about the economy', 'Do you care about the vaccine rollout', then standards will probably come quite low down. But they are still important, and they're still baked into quite a large cake. That means that if these things are broken, whilst we might not be able to say X caused Y we see a more general malaise with regards to the political process and I think that's really important. And it's really important to consider public opinion in the round, in that sense, not just in terms of X scandal or X issue.
21. And the second thing I'd say, just coming back to your second point, was mainly just to agree with Gillian, which is that I think when we're thinking about these things that tone from the top is incredibly important. And whether we're thinking about a breakdown in standards perhaps, or anything like that what we need to think about is the extent to which those in really clear positions of power are actually acting with propriety if you will, and the extent to which that is diffusing down. Because if they're not, then it will diffuse down in a poor way. And actually, to an extent individuals matter in that, individuals matter, because individuals will set the tone and then others will follow it and individuals at the highest level of office will do that. It also comes down to institutions, as Gillian suggests, with regards to political parties and political parties setting the tone, but there is an extent here to which you can try and embed these norms, but they do need to be taken up, and you need stakeholder buy in, to use a slightly corporate term I suppose, from the very top, to actually have this diffuse down, and if you don't have that buy in, then you can see a real decline in standards quite quickly I suspect.
22. **Lord Evans:** Thank you. Ciaran Martin.
23. **Professor Ciaran Martin:** Thank you, Jonathan, and just a few quick points on your question to us on do people care. Firstly, I'm not an expert on the research but there's enough evidence that I think that some people care, maybe not enough to form a UK wide electoral majority but as the first speaker said, in a liberal democracy, you don't just worry about who can constitute an electoral majority you worry about everybody. So, it is of concern to enough people. Secondly, I would caution against taking a particularly London centric view of this. Northern Ireland is in the grip of a political crisis over adherence to the rules on lockdown. Right now the Assembly is being recalled. Scotland has been convulsed by what by UK-wide standards may appear as relatively trivial, and an issue on the violation of the Ministerial Code, despite the very un-trivial personality politics behind it. So we've had two parts of the UK convulsed by standards issues in the first three months of this year. And then, to go back to the Northern Ireland example, clearly there was evidence that Barnard Castle led to significant perceptions of and compliance with lockdown changes. Now, given that everybody has one vote in a general election every four or five years that may not in and of itself be enough to change the casting of that vote but that's not the same thing is not registering as a significant issue in its own right.
24. I would be interested, because most people on the screen have significantly more expertise in the research than I have, about what sort of things people do care about. If I look at the Seven Principles, I think most people would expect six of them to be routinely observed. I don't think there's a real expectation of selflessness in the ego sense for example. But I do think there is in the enrichment sense, and I think it is quite interesting that there's still a standard in everybody, citizens of all persuasions that I know of, that they value the fact that, for the most part, our politicians do not line their own pockets. They may be careless giving out contracts, they may flex the rules and so forth but there's a fundamental point about the propriety of public money which I think remains at the heart of this enterprise and any very serious undermining of that I think would have very serious consequences. So I do think it's a nuanced picture geographically, it's a nuanced picture electorally and it's a nuanced picture in terms of the standards that people do care about.
25. **Lord Evans:** Very helpful. I'd like to move on to the second topic in which both Rebecca and Robert are speaking. And this is around ethical standards, good governance and anti-corruption. The impact of high ethical standards on the quality of UK governance. So I might start perhaps with Robert Barrington.
26. **Professor Robert Barrington:** Thank you. I'll just make the point I was going to make there because it's relevant to this which is, you know, I think we can all agree, most of the British population won't be able to cite the Nolan Principles, but trust in government is important for a number of ways and Sam mentioned the Covid crisis. We shouldn't forget how much of the government's Covid response has been dependent on trust. The ability to enforce a lockdown because the government is saying that the statistics require that, and particularly the vaccine rollout and the importance of high take up with the vaccine, and it's not too difficult to envisage a situation in which trust is lost in government in which we feel that our leaders are lying to us because they're not fulfilling the criteria of honestly, and so on. And then if they say well vaccine X is safe, it's fine for you to take it despite the fact that it has been halted in other countries, people might have a level of scepticism they wouldn't otherwise have. So I think the Covid crisis for a number of reasons puts in really sharp relief a lot of the issues that are often not a matter of life and death, but in this case probably are a matter of life and death, and that's about trust in government.
27. On your corruption points, if you envisage corruption as I do as a sort of abuse or misuse of power, or a distortion of office for private interests, then you can see that ethical standards are one of the things that avoid abuses of power. There's no doubt in my mind that what we've seen recently has been tipping the UK ever nearer the edge of the question of misuse of power. And Heather mentioned the idea of global perspectives of Britain and the sense of whether Britain is seen as a country that has either a corrupt government or higher levels of corruption than previously. It's very difficult to say when you reach that dividing line or that tipping point, but in my view, having looked at this across the world, Britain is much closer to that edge, the tipping point. And I think the concern is that when you get there it tips quite quickly, that you don't sort of have a very slow, gradual slide. If you look at what's happening in Brazil at the moment you have suddenly quite a quick move from one state to the other, when some of those key things are taken out of play like standards in public life. So the last thing I'd say is I think a really critical thing here and clearly the committee is doing this in having this discussion, but it needs to be done more widely, is admitting the problem. Unless you admit the problem in the first place, you're not going to have an appropriate remedy in that case. And I think, while there's been media attention, some public concern and so on about the issues of declining standards, unless that is owned by the political class in the UK, we're going to have a much tougher challenge.
28. **Lord Evans:** Thank you very much that's helpful. And I'm going to invite Paul Heywood to speak.
29. **Professor Paul Heywood:** Thank you. I think there's been many very relevant and interesting points made so far but I'd like to pick up on one of the challenges that you set out in one of your recent comments, which is to ask the question of self-reflection. I'm maybe not so popular amongst corruption circles for having questioned the effectiveness of anti-corruption efforts over the last quarter century or so. I think it's perhaps not entirely accidental that the Nolan Principles have a similar lifespan to many of the international anti-corruption efforts that have been taking place since around the early to mid-1990s when people started to become very exercised about these questions. If we're honest with ourselves, we're 25 years on, we're not only still asking the same questions, but we're witnessing growing concern about standards and corruption and a decline in what we might call ethical universalism across a whole range of countries, not just the UK. The UK hardly stands out as exceptional in this regard, although recent developments are concerning. So I think one of the things we should do is ask ourselves, is the way we have gone about trying to address some of these concerns the right way. And that means, frankly, being honest and asking hard questions about well - the Nolan Principles look fantastic, nobody's going to look at them and say they disagree with all of that but is that the right way to try to ensure that high standards are adopted or maintained or supported.
30. And I would say that one of the things that I'm concerned about is that the history of the last 25 years or so is that we see increasing aspects of behaviour which concern us and we respond to them, react to them. Well of course we react to them but the way that we tend to react to them is to try to generate ever more sets of codes, rules standards, etc etc. That may not be the most effective way to ensure that we actually get those standards that we want and so I'm happy to talk further about that, maybe later on when I think some of the other questions lend themselves to exploring that more deeply. But I do think we need to question, quite frankly, whether this way of approaching the whole issue of maintaining standards, upholding standards, is the right way to do it.
31. **Lord Evans:** Thank you, Rebecca Dobson Phillips.
32. **Rebecca Dobson Phillips:** Thank you. I just want to return to the point about whether the public care - it relates to some of my comments about ethical standards, good governance and anti-corruption - I think there's quite well established evidence that on a general level people really do care about the process as well as the outcome. The problem is I think sometimes that the process is so obscure, that the only place they have to make the judgment is on the outcome and whether it suits what their preferences are. So I think there's an element of transparency there that can be brought in, and maybe not transparency in the way that it's often seen as sort of a scrutiny, looking out for what's been done wrong etc. But actually in a much more sort of positive way about engaging with the public about how decisions are made, and being much more open about that, and having a more open culture around that.
33. In relation to the topic that we're discussing now, in terms of high ethical standards and their impact on UK governments it really depends what your criteria is for success and quality. And so, it's probably true that some sort of ethical regulations, some sort of ethical standards can come at the expense of more expedited or superficially sort of efficient processes, but in the long run, the ethical standards should be seen as fundamental to the quality. I think sometimes there's a tension there, you know, we want to get things done, we want successes, we want to get moving, but that needs to be balanced with an appreciation that sometimes ethical deliberation and working out some of the complex issues takes time and takes energy and takes resources.
34. I think that the other point that I would make is about the role of the public service ethos and the role of culture, and where that is prioritised in terms of what we care about just much more generally. There's an increasing recognition that the environments in which we work really have an impact on the ways in which we behave. And so principles, the Nolan Principles can really help to shape people's behaviours and the relationships that they have with others, but it has to be part of the core of their work in the core understanding of what their role is in society and in structure. And I think that there seems to sometimes be a tendency that when we see ethical cultures perhaps declining, or we have a sense that they are, as I think as Paul said our response is - I think I am interpreting you correctly Paul - our response is to come in with regulation, to come in with rules, because we want to control that behaviour. And really often rules can't compensate for the ethical environment in which people are working. And rules can never cover every circumstance. A much more reflective approach to how you deal with the more tricky ethical questions. In my research I've spoken to quite a few people who, in general, people in public service, want to serve the public, they tend to want to do their job very well, but sometimes they get into tricky situations, conflicts of interest sort of situations, which are not straightforward, and often there's not a space for a nuanced discussion about how that conflict can be managed. And I think that's something that's lacking in the system.
35. **Lord Evans:** Interesting. Ciaran, I think you can come in at this point.
36. **Professor Ciaran Martin:** Just to pick up on the previous point, I think there is something about the very technocratic functioning of these rules, I think the way in which we've constructed the system, for very good reason, leads to outcomes that can make sense only to those who are very familiar with the design of the system. I mean, for a start, there's an absolutism in terms of the ministerial and other codes, it is either broken or it is not, there is no degree of variation. And seared in my practical memory, when I went into the Cabinet Secretary's office in 2005 is the David Blunkett second resignation, which appears to me to be - it's a sort of 21st century equivalent of the Crichel Down affair which I always thought - and Robert may have a different view on this then me - but I always thought was a constitutional nonsense. It was actually an aberration rather than a doctrine, mistakes were always made in government departments and Crichel Down I think set an unhelpful precedent that Secretaries of State would take responsibility for things that they clearly could not have controlled. I think the Blunkett resignation was one of a number in that period that set a precedent. And in a sense set off a game. I remember the rhetoric of the time. There's a proprietary breach, it's not very important, it was actually - the Blunkett second resignation was about forgetting to fill in the forums after his first resignation to get a job. It was that trivial, but it set in place a parliamentary and political process of hunting for wrongdoing. And all it needed was the technical infringement and you've lost a senior member of the cabinet. And I think that lack of nuance in the system has come back to haunt us, and I think what we will need to think about, given that I cannot think of a way in a democracy of taking the ultimate judgment of this away from the Prime Minister - others may be able to but I can't. So I think the concept we're looking for comes back weirdly to sort of national security looks about deterrents. How do you make it that the costs of taking a particular decision based on the transparent facts at hand - and transparency is a huge part of this, and this is where I think, actually a lesson of Alex Allen's reporting on the Home Secretary is at least it's out there, whereas a lot of the other ones weren't - is how do you make a system whereby there is a sufficient deterrent or sufficient calculation for ministers to take that will incentivise good behaviour and disincentivise bad behaviour. In other words, you will never be able to take away the Prime Minister's power to decide to continue with a particular course of action or particular person, but you can increase the costs of so doing. And I think there's something in the design of our system and the way it's evolved over the 25 years, through nobody's fault it's just the way it happened, which has this disincentivised that.
37. **Lord Evans:** Thank you. I think we can open to the floor to follow up any of the points that we've heard over the last few inputs. Can I ask - I've noticed that the law is starting to encroach obliquely onto areas that would previously have been seen as standards matters. So the Good Law Project has been looking for legal ways to bring issues which would previously have been seen to be not justiciable in front of the courts. And I wonder whether that is a response to a failure of the existing system, or just the enterprising nature of lawyers who have managed to extend their rent across almost every aspect of life. Gillian Peele.
38. **Professor Gillian Peele:** I think there definitely has been. Obviously we know all about the expansion of judicial review in the period since the 1960s. But I think there's also - I've not seen any research on this recently - a much greater faith on the public's part for formal mechanisms for issuing complaints and securing resolution. So just going back to Crichel Down, one of the things that followed Crichel Down was a desire to have many more formal judicial mechanisms for controlling government mistakes in place. So I think there was both a legally-driven increase in inserting legal processes into these kinds of decisions, but also perhaps a greater desire from the public to see formal legal controls. Now there's some circumstances where I don't think you really want to have those kinds of interventions. And if you put things on a statutory footing you might get more of it, but that's that's for another session, but I think that certainly has been a change.
39. **Lord Evans:** Heather Marquette:
40. **Professor Heather Marquette:** Thank you. I had written down in my notes a point about how, as somebody who came to the UK in 1997, it really has struck me how much of this is based on conventions and norms and not on the sorts of formal mechanisms that Gillian just mentioned as well, and how much power sits in the hands of the Prime Minister. And then the point that Ciaran made I think is really important because how do you do that? One thing that you can do is actually think more about the systems leading up to the choosing of a leader to become Prime Minister. Could we think differently about some sort of vetting process before somebody puts their hat in the ring, through say developed vetting to make sure that they don't pose any particular security risks when they gain access to top secret material? Whether it is, you know, a track record of evidence of adherence to the Nolan standards and so on, if you could actually weed out people who would pose a threat in that role, and may or may not be able to exercise that power in a way that's in the public interest, then that might help square the circle, a little bit as well.
41. I think the point about law encroaching the issues of standards - I saw a webinar with Jo Maugham where he made the point that that we've reached a situation with regard to upholding standards where the law has become the last resort. When you see multiple reports and revelations by investigative journalists, when you see various processes around things like bullying or whatever it might be, where there are few responses, let alone sanctions for that, then what you're left with is the court as a last resort. And again, my expertise is global not necessarily UK but this is what you see in many low-income countries where the judicial system is often the only response available to civil society, and to reformers as well. I don't know if that's where we're at in the UK but you can certainly see that right now the only thing that seems to be happening is that something goes to court and is then declared unlawful. What happens afterwards? I don't know - I haven't seen any action come out of things being declared unlawful, which is a really bad potential situation. It depends a lot on the strength of the underlying institutions and conventions and norms, and I'm not convinced they're holding up.
42. **Lord Evans:** Paul Heywood.
43. **Professor Paul Heywood:** Yes, just a quick comment on this issue of deterrence in shaping behaviour, and not doing things because of concern for potential consequences. I think that's a worrying direction. I think it's reflective of the direction that we have actually gone in, in terms of how we try to control or manage behaviour. If you can think back to the origins of this notion of the public service ethos, I mean that that sense of ethos is very important. You know, people were expected to do the right things because they were the right things to do, not because they were worried that if they didn't do them they would get caught. And I think one of the issues we've got into is this growing sense of when things go wrong, well then we legislate against it. And you get a sort of an ever growing set of minimum standards of behaviour against which you want compliance with the sense of if you don't comply, there will be consequences. Well actually what we want to get to is a situation in which you don't need that. What you want is a sense of, in which people are doing the right things and behaving in the right way because they recognise that they are the right things to do. And it gets very dangerous I think when you start to move - and this is the real concern about the judicialisation of much of this - as soon as you start to move in the kind of rules and punishment of infractions of rules, you create a self-perpetuating dynamic, where you need ever more rules and more punishment when people break those rules. So I think that's something that needs some real thought.
44. **Lord Evans:** Thank you. For time reasons principally let's move on to topic three, which is assessing adherence to high standards, what evidence is there on how well public standards are being upheld. Because there is a commentary and there is a concern that standards are falling, that they're under acute pressure, it would be interesting to take a step back and say what's the evidence base for saying that. I'm going to invite Alistair Clark to offer some thoughts on that.
45. **Dr Alistair Clark:** Thanks very much, Jonathan. My views in this were derived from observation when I held a House of Commons fellowship, looking into standards issues, and my view is that there's a spread of adherence towards standards issues. One way of thinking about this, and this is not by any manner of means a scientific number, but is as a kind of 80/20 problem, if you like. 80% off of MPs, representatives, public servants actually adhere to standards without any thought, they do so willingly and do so without any real difficulty. The real difficulty is that we end up responding to those 20% or whatever number it is that for whatever reason are either hostile to standards, who don't comply with standards issues or whatever. And these can be quite a noisy group of representatives. Now, the difficulty I think is as we've been hearing, there's a real risk of backsliding at the moment, we've talked a bit about leadership as part of this and I think that's true. The difficulty is, does that 20% or whatever it is, that group, start growing, and you start getting that culture of non-compliance, of resistance, of whatever it may end up being, broadening?
46. Now, I think there's a tension here as well between broad principles, such as the Nolan Principles and trying to comply with those, and also more detailed codes of conduct, as well. And I think the tension is that with the codes of conduct, the argument often is made, that people try and really game the rules to some degree. We've seen a bit of this with Covid sadly but this has also been noted in terms of codes of conduct with standards. Whereas the argument is that the principles are general principles on behaviour that people should comply with more generally. I'm not quite sure where I stand on that argument, I think it's a very important tension to be thinking about. But I think one of the things that I would suggest about the Nolan Principles is, that it's fine to see them as an overall whole but it's also worth disaggregating them to some degree as well, so we can start to estimate, to get some sense of where some of the difficulties are. Now we've talked about leadership earlier on but there are very specific problems in, for instance, accountability. We have representatives and an executive that is very very resistant to any form of accountability so there's a specific principle there that needs some degree of thinking about. Also openness, go to the Institute for Government and you'll find things such as their briefings showing that Freedom of Information rules are being routinely ignored, responses dragged out or resistance to compliance and so on and so forth. Objectivity being another problematic principle. So I think it's fine to see these principles as an overall whole and how people are adhering to them but I think also in this regard, it's worth disaggregating them a bit so that we can diagnose some issues, more specifically.
47. **Lord Evans:** Thank you very much. Leighton Andrews.
48. **Professor Leighton Andrews:** I'm not sure anybody has really done a lot of research as to setting a series of objective judgments as to whether, say, breaches of the Ministerial Code are less likely to result in resignations now than they did maybe 10 or 20 years ago, but I suspect that. If we think about recent examples, then, we could see a whole series of examples where ministers have acted in ways that have been found to breach the Ministerial Code or come close to breaching the Ministerial Code, which would have excited a lot more media attention, criticism, and probably reprobation, then we have done over the last 25 years as a whole. And I do think that part of this has been driven by the increasingly partisan divides post-2016, and that is to do to a degree I think with the alignment of media institutions who basically rally around people on their side, and are less willing to raise as issues things that they would have called out in the past. The Daily Telegraph, for example, famously was behind the MPs expenses exposure in 2009, it's probably been less vocal about breaches by ministers over the last five years or so in a variety of forms. So, I think we have started to see a decline in standards observation, and a decline in sanctioning of those whether it's formally sanctioning them through removal of post or sanctions through the form of media exposure.
49. I thought some of the points that Ciaran made were really important. I do think there is an issue with the Ministerial Code, I'm still governed by the Ministerial Code as a former minister. I'm only governed by it at the moment, in respect of having to run past the Permanent Secretary of the Welsh Government anything I might want to publish about my time in government. But I was subject to the Ministerial Code for a decade and I think most people take going into ministerial office take the Ministerial Code seriously. I think Ciaran is right to say that there may need to be an element of nuance around the ways in which specific kinds of breaches are treated. It is as he said absolutist at the present time. We will come on no doubt to sanctions later on, but it does seem to me for example surprising that ministers who failed to indicate to ACOBA - or ex ministers - essentially escape without sanction, whereas, members of the National Assembly for Wales as was, the Welsh Parliament, would be subject to fines under the Criminal Justice Act if they breached interest when in office. So there is also here I think an imbalance around some of the standards that we hold.
50. Your final question this session was about leadership, I referred to leadership earlier on. Leadership matters at all levels. We have seen, Ciaran was also right to raise the issue of not just looking at this from a London perspective. We've seen the Scottish Government found guilty of acting unlawfully in the courts over issues to do essentially with standards and conduct. The Welsh Government in the same way with respect to actions taken following the death of Carl Sergeant who was a minister, was also found to have acted unlawfully in the courts. So your point, Lord Evans, do the laws encroach on this, they do because norms, standards in government are also inactive within a wider context. And you can think of this like a spectrum of things that are unlawful right the way through to things that are observed as established norms within institutions that have come to be adopted over time.
51. **Lord Evans:** Thank you very much. Useful to get a perspective of somebody who's still subject to the Ministerial Code, interesting. I'm conscious of time, and so I'm going to ask Sarah Birch to make some comments, and then I'm going to invite Mark Philp in a feat of brilliant precis to summarize, and boil down everything that's been said in the last hour into about two minutes. But, Sarah, would you like to take the floor.
52. **Professor Sarah Birch:** Thank you. Yes, I've been listening with great interest to people's comments on the different possible approaches to dealing with issues of ethics and I've heard people say that litigation is not necessarily the best way and other people said regulation isn't necessarily the best way, and some say codes of conduct aren't necessarily the best way. It comes back to the question that we all agree on, which is that there needs to be a culture and ethos that is upholding standards. But then if all of these ways of getting to the ethos are not suitable then the question arises, what is the correct way, you can't just magic an ethos out of thin air. And it seems to me that a useful starting point might be the recognition that the UK public does have, to a large extent, an ethos that lends itself to upholding standards. We are very fortunate in the UK in having a public who really care about standards in public life, this is not true in all countries. And it may be the case that when people go to the ballot box, that isn't the first thing that comes to mind and then may vote on the best of other issues, that doesn't mean they don't care, they do care intensely. And that potentially is a starting point to thinking about how you get this ethos that is actually quite widespread among the general public - how you get that reflected in public life and I think, although just having more regulations and more institutions isn't necessarily, you know, a straightforward solution, I think coming back to finding a way, probably institutionally, of giving popular concern about ethical standards in public life, a greater institutional role in upholding those standards might potentially be a way forward.
53. **Lord Evans:** Very helpful, thought provoking. Thank you. Mark, I will hand over to you.
54. **Professor Mark Philp:** It does strike me that there's been a series of points made about the importance of informal norms of culture, and so on, and that the emphasis that we've had is probably that more and more regulation isn't necessarily going to help, probably because you've then got to implement it and you've got to trust the people implementing it more than you trust the people that they're implementing it over. So, increasing amounts of legal intervention, don't look as though they're the kinds of things that people want. It seems to me there is a problem in emphasising culture that we haven't really touched on which is partly about how far the public understands the culture of its own political institutions, and what kinds of connections there are between politicians, civil servants and so on. The kind of Westminster culture or devolved cultures and the general public's. I think the general consensus seems to be that the public do care about standards. It's not clear to me that we're saying that the public understands their institutions well enough to know when those standards are being importantly broken or not importantly broken.
55. And I think the other things that have come out - we've got to start thinking a bit more about how we make those kind of higher level standards, like the principles, integral to people's kinds of practices. So, the two additional things I'd say is that, until Leighton's spoke, nobody mentioned the press. It does seem to me that this is an area in which, you know, standards are talked about and standards are potentially kind of challenged, and it is a crucial parts of the accountability process, and it raises wider questions about, are we talking about the public, or are we talking about the media, and how far are the media, and how far has the development of social media in particular, began to influence the way in which people conduct themselves in office. Those seem to be the kind of issues that we should be dealing with.
56. And the second thing that I think we haven't quite talked much about is the difference between politicians - when people are saying standards are in real trouble and that does seem to be a consensus here - they seem to be saying that standards are in real trouble in relation to politicians. Do we think standards are in real trouble in relation to public services? In many respects the citing of Covid is a good example of a set of public services that are delivering high quality and meeting public expectations and sustaining the support of the public. So, some thinking about how far politicians and public services are slightly disconnected might help us think through questions about what elements of culture we want to emphasise for which of the different groups that are operating within the public sector. So it's not quite a summary but it's a kind of critical response to what people have said, I hope we perhaps pick up some of those issues in the second half.
57. **Lord Evans:** Mark, thank you very much indeed for putting down some markers, that's extremely helpful. I'm going to hand the chair now to Jane Martin for the second half of this conversation. So Jane over to you.
58. **Dr Jane Martin:** Thank you very much indeed Jonathan and good morning everybody. And just two things to say first of all we've got a lot to get through in a short time so I'm just going to try to be very focused in our discussions, whilst of course opening up to the floor. And so, in this second section we do want to focus on the effectiveness of our standards regulators and we take on board all the points that were made previously about the general view of standards regulators but if we could focus on the standards regulators that we have and that landscape, because we're particularly interested in that for our review.
59. There are three topics just to remind us. The first topic is about standards regulation, the historical context, so basically know what have been the drivers of change in recent years and are the regulators keeping up with the pace of social and political change. The second topic is about institutional resilience, so we've got a lot of sector specific standards regulators, are there any reforms that you think we should be looking at. And then the final topic of this section is about should there be any particular standards regulation for elected officials, as opposed to appointed, but I was thinking of all those political issues, some of which we've already raised. What I'm going to do for each of these topics is I'm going to invite a number of you to speak as I think you're expecting. And what I think I might do - please do feel free to interject - but what I would think might be a good idea is if we go through each of these three topics, I'll call you to speak and then we'll open up at the end. Please do feel free, I don't want to stop anybody speaking, but I think that might work well. So, after all those instructions, let me start then with the next topic which is about the historical context of standards regulation of where we are now in relation to recent years. And could I invite Gillian Peele please to speak first of all on this.
60. **Professor Gillian Peele:** Thank you very much. Rather than going into a great deal of historical detail I think what I would say is you can see the interaction, over quite a long period, of two broad factors, one of which is changes in the role of the state and perhaps the values of the state, and the other is the incidence of scandal or corruption, or risk, perception of risk, associated with public decision making and public institutions. And I think what this means is that we don't have a kind of consistent concern with standards in the state historically, it comes in waves. And we see before the Second World War, the period of the First World War, obviously a range of concerns about political fundraising and about public contracting. And then a period of quiescence until we get to a range of a sort of odd scandals like Poulson and so on in the 1960s. But I think when you look at modern times, what we see very obviously from the Thatcher period onwards, and I think that's where we will draw the modern line, is a new emphasis on the virtues of the private sector, an encouragement to promote new goals of wealth creation, efficiency, service delivery, and a scepticism perhaps about what have been traditional values in the public sector as well of course, which I'm sure will come on to as a desire to get greater control over the civil service.
61. And I think it's the interaction of these two things, which has actually caused a range of problems. In addition of course there have been some major changes, constitutional changes, Europe, in and out, devolution, which has created a whole new set of institutions and of course very different standards arrangements in the other parts of the United Kingdom. And your committee, of course, only deals really with England although it's obviously aware of the examples set by the other parts of the United Kingdom.
62. I think just to mention a couple of other changes very quickly without going into too much detail. Sometimes you get a situation where in opposition a party has identified a problem, and then pushed to control the way that particular issue has been handled, and I'm thinking here of the whole issue of party funding and the Electoral Commission, and the way Labour extended your committee's remit and took control of framing that funding legislation. Historically, also, you do get new ideas, new issues arising on the agenda which weren't there before and I'm thinking here of intimidation, the whole question of the intimidation of candidates, where of course Theresa May sent that to the committee to look at as a matter of urgency and it's still being worked through. Artificial intelligence another good example of something which would not have been seen to be a standards issue 20 years ago.
63. The committee itself of course can change the agenda. And I think sometimes what we see is the media actually taking over the agenda, I'd suggest that's what's happening at the moment. There's an interesting article today by Henry Mance in the Financial Times, suggesting that we're - going back to the point about a tipping point - that we're entering a new sort of period of sleaze. So I think that there are various drivers of change in relation to the handling of standards, and there's also been quite a lot of international influence from GRECO and bodies such as that. I think in terms of public expectations, I think here the tension is really obvious. It has been very interesting, I think to see that the public has bought into clearly in relation both the Brexit 'Let's get Brexit done' and in relation of course now to Covid increased emphasis on delivery and perhaps the downplaying of procedural propriety which looks rather a second order problem. So while I think the public does actually want to see high standards in government, I think sometimes at some periods, and this may be one of them, is putting other issues and values first.
64. I'll just say one very quick point about social change. I think the media is crucial here, and I think I would say that we haven't really talked enough about social media, which I think has been very much responsible for what I call a coarsening of public discourse, and the elimination of what many people I think rightly valued which is nuance and subtlety in handling these kinds of issues. I think standards issues are complicated to understand and I think that it's very easy to get a cheap sound bite sometimes out of them. And I think it's a real problem as we see a larger portion of the population, the younger people getting a lot of their news from social media, rather than from serious journalism, and from, perhaps even from ordinary television programs. So I think that has made a change.
65. I think just to come back to principles. I think under Nolan Principles, some of them unless they are explained won't have much meaning to some people. I'm thinking particularly of selflessness here. I keep trying to think of something you could say instead of selflessness, to get this kind of emphasis on concern for the public sector, but there isn't a single word that I could come up with to replace it that so I'm stumped. I think the other point, which I will just make on the principles and what people seem to value in government, I think there's been a lot of talk of course about inserting the notion of respect into the Nolan Principles. I think there is more concern with diversity, with people being accorded respect, with civility in public life, and I think if we can capture that in some way it would be good. Perhaps inserting into the other principles in some way, but in some way I think that means much more often to people than something like selflessness which doesn't really have much meaning anymore to many people until it's explained. So, we'll stop there. I know time is short.
66. **Dr Jane Martin:** Thank you very much indeed and you've raised some really important points there about selflessness and respect and I guess you won't be able to get into that in too much detail today but certainly it's worth noting it and if anyone does wish to come back to us with further thoughts on those things, please do feel free to do so because we'd like to hear more, I'm sure. And so on this particular topic, I'm going to ask, Rebecca Dobson Phillips to speak next and then I'll come on to Ciaran and Paul Heywood if I may. So Rebecca, please.
67. **Rebecca Dobson Phillips:** Thank you. Thanks a lot, and I don't have a lot more to add to what Gillian said. I agree almost entirely. I think that in terms of the drivers of change, the changing sort of environment in which public office holders are working, the increased complexity of governance, the increased range of individuals that are involved in decision making and also in service delivery creates a complexity in which cultures are a challenge, tested. Scandal, obviously, is one of the drivers, but I think there's also, there is a sense of the public's expectations also being a driver of change. And I'm thinking less about their expectations of formal behaviour, but of the expectations they have when they engage with politicians. They're engaging with them on social media, they're engaging with them in much more informal contexts. And that's a very difficult area to regulate and a very difficult area to control if that's what you're trying to do. And I think there's also been an increased demand for openness from civil society, maybe less from the public and more from civil society groups pushing for transparency, but very much from the perspective of we want to see what you're doing wrong, rather than actually we want to see how this system functions and what our role can be in it.
68. And then I just have some finer points on remit and powers. I think it's clear that there are some institutions where there's advisory roles that maybe do need more teeth, and more powers are being demanded, and I think there's a sense though, that that's not the only sort of direction in which we need to travel, because regulators, especially with technological innovations - I'm thinking about the Electoral Commission here - are always going to be slightly behind the curve of societal developments in those areas and so I think that's why it's so important that there's a regulatory regime that is backed up by ethical cultures. And finally, I think sometimes there's a confusion between whether something is a regulatory issue, a failing of our ethics and regulation, or whether it's a failing of our democratic processes. And so a consideration of that tension, where the accountability ends, is it a political accountability that we're aiming for a democratic accountability, or an accountability to a particular set of rules and regulations.
69. **Dr Jane Martin:** Thank you very much indeed. Clearly please do bring in any points you want to make when you've got the floor, but just on this particular point about the historical context, then, Ciaran and then Paul Heywood.
70. **Professor Ciaran Martin:** Thanks Jane. Very quickly, I think, in terms of historic context it's worth looking at some things that might actually have gone reasonably well. In my own view if you take Covid, the oldest of our sort of standards regulatory frameworks is the Public Accounts Committee and the National Audit Office which dates back to Gladstone, and they actually did a really good job during the pandemic. It didn't second guess decisions that were properly the purview of the government during an emergency, but it did highlight very quickly the use of emergency powers, the scale of potential waste and so forth. And so it teed up for legitimate public debate what the future use of emergency powers should be, so I think it's a really important thing to hang on to.
71. Equally, I think, part of the tapestry, perhaps invisible parts of the tapestry of public fabric meant that when electoral integrity, following what happened in the US in 2016 seemed to be under threat, various parts of the system came together in a very non-partisan way, in a very good UK wide effort to protect the integrity of the election. So those things in the historical context of frameworks, values, and so forth that are still working. I do think this committee that we're talking to has an important role in all of this, and I just wonder sometimes - Rebecca is absolutely right, regulatory bodies are always going to struggle to keep up with social trends - but for historical reasons I understand, we tend to exclude everybody from commenting on specific cases, but specific cases do shape public [opinion], and if you think of things like the Electoral Commission, the CSPL, you just think, why do we bother with this anymore, because we need to do this.
72. And two quick final points, I'd like to endorse Gillian's point on civility, I'd never thought of that before but it's actually really worth thinking about given the state of public debate all over Western democracies at the moment. The final point on historical trends that I think is challenging and worth thinking about is the role of the public official. You know, it's very different even from when I entered 25 years ago, and there's all sorts of things - for example, you know people are working longer so one can expect a more portfolio or varied career in and out, so is it really sensible as long as Leighton doesn't break the Official Secrets Act that he has to clear an article with the Permanent Secretary indefinitely after leaving office, and stuff like that. I think social media has been mentioned by Gillian and Rebecca. If you look at for example, Digital Public Service, you look at for example, there's a Chief Digital Officer at Defra, who is a digital pioneer, she's really really good and she puts out on social media all the time a request for engagement with the farming community about what sort of digital services you need from government. That makes her a figure in her own right, and gives direct access of the public to her and so forth. And that's a good thing, but it sort of changes the model, the 'Yes Minister' model about the relationship between civil servants, the public, the stakeholder community and so forth in a way that our system hasn't really captured. As has the growing tendency this century - and administrators have been to the forefront of this - of making public servants more directly accountable for projects and failures and so forth and I think our system hasn't really captured that. So I do think one structural problem - we may come on to the solutions although we're not going to solve them in this short time frame - is that the deal of the public official, particularly the central civil servant, is very very different from what was even a generation ago.
73. **Dr Jane Martin:** Thank you so much, lots of really good things there that I'm sure we want to pick up and move on to, Paul Heywood please, if I may.
74. **Professor Paul Heywood:** Thank you. Yes, so as you say some really good points have already been made, but I would just push them a little bit further, particularly picking up on things that Rebecca was saying. I think clearly the way that we frame our understanding of what we're trying to do when we talk about regulating standards in public life, the framing of that is an understanding of how liberal democracies ought to function, which is shaped by a particular historical period. And in a long term historical framework that's actually a pretty short period. And we could argue, I think I would argue, that actually we've kind of moved beyond that. It's not just that the state is changing in how it operates and the state is changing in its capacity, but one of the crucial elements that I think has to be brought into this discussion which hasn't really been touched on sufficiently - it's been sort of hedged around a little bit - is that what we understand as or who we understand as the actors who are in public life is changing. So when we talk about regulating standards in public life, our understanding of public life is framed in this kind of rather old fashioned sense of, you know, there's a clear separation between a public sphere, a private sphere, separation of powers, etc. But the reality of modern states is not like that at all and certainly the liberal democracy that we live in now in the UK is one in which private actors play an ever greater role in a whole sphere of activities which conventionally and traditionally we would have understood as being part of the public sphere. But we don't really talk about that in sufficient detail. The power of major corporations now, the incapacity of states to control information flows, we've had some talk about social media but it's not just social media it’s massive media empires and their capacity to shape, public debate and so on. So, there's a whole series of changes, both in state capacity but also in who the actors are who operate within the public sphere, that are not captured by kind of falling back on these kinds of old fashioned I would say notions of what the proper purpose of regulating public life should look like. I think we need to explore that in more detail to understand, who also needs to be regulated beyond those conventionally who would be seen as part of the public sphere.
75. **Dr Jane Martin:** Thank you very much indeed, also an extremely helpful contribution there. So, with your permission now I will move on to the next topic. Topic five is about the resilience of standards regulations and this has already been touched on in some of your comments, so it flows quite smoothly from what we've been talking about. And we're very interested in the advantages and disadvantages of particular sector specific standards regulators it's already been pointed out that it's piecemeal, necessarily, because a scandal is solved by another regulator etc etc. We all know the way this has gone. And we're also interested in the reforms to the regulators, notwithstanding the big picture that's been raised with us but we'd like to understand about the resilience of the regulators we have. So I'm going to invite Robert Hazell, and then Marcial Boo to speak, and then Sam Power. Robert Hazell.
76. **Professor Robert Hazell:** I'm just going to address the last question on topic five about sanctions, independence, and appointment. Briefly on sanctions, I think we've heard how the ministerial code can be enforced in a rather binary way and I think it's very important that in any sanctions regime at any level, that the sanctions are proportionate, and that there is a range of sanctions that are applicable, ranging from an apology or a reprimand in what's thought to be a minor case to possible suspension, or in a very severe case expulsion. And I want to float an idea that's just occurred to me during this discussion and forgive me, it's very tentative because I speak in genuine ignorance, this is something that may exist, but it occurred to me that company directors can be declared unfit to be a company director. And in certain professions, you can, as it were, be expelled for life. I was a barrister, I could have been disbarred. Doctors can lose their certificate from the GMC. So I wonder whether it may exist, forgive me for creating this rather wild idea of whether there might be some generic sanction of being declared unfit to hold public office. And if you want to run with that one obviously there's a host of questions about who would make such a declaration, how wide its scope would extend etc.
77. In terms of appointment of the regulators. I think it's really important that all appointments are subject to a process of fair and open competition, that there's an independent element on the appointing panel, unless it's subject to independent oversight of the kind that's provided by the Commissioner for Public Appointments, and you've had evidence from Peter Riddell already in this inquiry, where he's pointed certain gaps in relation to quite important senior public appointments at the moment. Lastly, just on appointment, in terms of the term of appointment, I think it's particularly important for that set of regulators that I would loosely call constitutional watchdogs, which CSPL very clearly is one, that people are appointed for a single non-renewable term. I think it's the case for example, in relation to your chair, Jonathan, that his appointment, but this is only a convention, is non-renewable, for a single term of five years. I would like to see that principle applied to all constitutional watchdogs, because I think it's really, really important to protect them from pressure while in office.
78. And if you ask me what kind of other watchdogs do I have in mind. Well let me give you one immediate example, the Electoral Commission, where a new chair has just been appointed for a term of four years, but that's renewable. I don't think it should be renewable, because I think it's really important to buttress the independence of the chair of the Electoral Commission, that he cannot be susceptible to any kind of pressure. And if it is going to be for a single term in that office or others, we need to think hard about whether it needs to be for a slightly longer period, five years, possibly even seven years. That's all for me. Thank you.
79. **Dr Jane Martin:** Thank you very much, Robert. Marcial, can I ask you to follow on please.
80. **Marcial Boo:** Thank you very much. Yes I'll make three broad points if I may. The first one, in response to some of some of the previous comments which I find absolutely fascinating, is to defend institutions and regulation. I speak as the head of the UK's new Institute of Regulation, I was a director at the NAO and ran it for six and a half years so it may be expected for me to say that, but I do believe that. Although I absolutely agree that a culture and ethos of standards is critical, sometimes establishing norms through regulation can help people to behave in the right way. I draw an analogy to the Highway Code - drivers, all of us, we have to pass a test, and we mostly comply. But the Highway Code is for those few people who don't. Regulation can therefore act as a kind of ratchet. And so the establishment of these constitutional watchdogs, as Robert describes them, can over time build confidence that standards are in place. And generally people forget about the regulations once they're there because they're just behaving and then they tend to focus only on those areas which are problematic. And so we don't worry so much, as has been mentioned, about electrical propriety in this country, because we do have an Electoral Commission. We have a Boundary Commission similarly. So I think that regulation can help move the dial a little bit so that's my first point.
81. The second one, just responding to something that Alistair just said earlier on about the 80/20. I would actually say that it's more like 95/5. You know that most people, most of us, all of us in our daily lives just want to get on with our jobs. My experience at IPSA was certainly that the vast majority of MPs just wanted to be MPs and argue their case in Parliament and they weren't concerned about pushing the rules, and they wanted to play by the rules. So, you know, there are all kinds of stats on IPSA's website about 99.3% compliance, very few investigations. Certainly in the time that I was running IPSA, I referred maybe a dozen people to the independent compliance officer and of those that were maybe six or seven that were referred to the police. And in the event it was more the staff that were bending the rules than the MPs themselves and obviously there's only the one MP, who was eventually recalled for expenses abuse, since IPSA was established, which was Chris Davis. So I just want to emphasise that although obviously we will be worrying now about political lies and MPs breaking promises and things like that we are concerned less about electoral probity and boundaries because we do have institutions in place to safeguard those on behalf of the public.
82. And then that comes on to the final point which is about resilience, which was the question that you asked. Jane, and I've talked now having done some interviews with Robert of 16 former chairs of constitutional watchdogs, including three former chairs of this committee. And it does seem as if there is a spectrum of resilience amongst these bodies, ranging from the Boundary Commission, on the one hand, which seems to be remarkably free from pressure and interference, perhaps because it's long standing, perhaps because its Deputy Chair, in lieu of the Speaker is a judge. So on the one hand, through to the Parliamentary Commissioner for Standards on the other hand, who does seem to be permanently subject to pressure, and perhaps due to the lack of statutory nature of the role, perhaps because they're so embedded in parliamentary life, necessarily saying, and report through to a parliamentary committee. In the middle of the spectrum, are the Electoral Commission and IPSA. IPSA and the boundary commission [sound lost]. . . well, I'll wrap up. I was just agreeing with agreeing with Robert on the point about non-renewable terms, and I do think the one important thing to note is that the personal character and experience of those people who are chairing these bodies, is really really important because the chairs of the Electoral Commission, IPSA, of this committee, can become subject to pressure, and if if they're not experienced in handling the shark pool that can be public and political life then t will be quite hard for them. So I'll stop there.
83. **Dr Jane Martin:** Thank you. I said I'd call Sam Power and then Robert Barrington you would like to come in after that so that's noted. I think, again, I'm sorry to say this but being as brief as we can with our comments so sorry about that. Sam.
84. **Dr Sam Power:** Thanks so much. I'll be as brief as possible. And just to say, I really agree to both those submissions there. And in particular, Marcial brings up an important point about the importance of regulation, and we shouldn't be under any doubt that culture and political culture and cultures and norms are no good without some form of regulation underpinning them. But similarly, regulation is no good without some sort of culture, which is embedded within that society, that's absolutely integral. I'll talk about the advantages of sector specific regulators and then perhaps some reforms rather than talking about resilience to political pressure. I tend to think that the advantage of sector specific regulators outweighs any cost in terms of the ways in which that power is perhaps devolved or slightly dissipated amongst lots of different bodies. I'll talk in particular about a regulator that's come up quite a lot, the Electoral Commission, it's a regulator I know quite a lot about, and generally I think that one of the strengths of the Electoral Commission, but one of the strengths generally of sector specific regulators, is that they have - the Electoral Commission has at least has 20 years - regulators tend to have a great body of work or a great institutional knowledge and awareness of both the regulation and actually also the culture underpinning that regulation, such that they can make judgments much better than I suspect any centralised body would be able to do. And actually if you then put powers in some centralised body, I struggle to see how that would work. So I often think that the advantages just very much do outweigh any costs. That institutional knowledge is absolutely key and I think it would be a shame to lose that in any discussions about how to better regulate this.
85. In terms of what reforms I would recommend, the research suggests that good regulators need to perform three roles, incredibly well. They need to educate, they need to investigate, and they need to sanction, and these are three things that are really important and these are the three things that need to be achieved in regulation. I would actually recommend that the CSPL looks at each regulator in turn and looks at how well each of them perform each of those functions: how well they educate, how well they investigate and how well do they sanction.
86. In terms of sanctioning, there's certainly more that can be done in a lot of areas. And actually in terms of education, something which has come up in quite a lot of the evidence I think, in terms of education in both process and outcome regulators can do a much better job. I'll end by also agreeing with something that Robert said in his submission, that I think that relates to sanctions ever so slightly. We do need to think more carefully about the importance of not just having binary sanctions. I think regulators do well when they are able to be somewhat malleable with the kinds of sanctions that they can provide, that run the gamut from just a word, and actually education of 'you did this wrong and this is why but we won't take it any further', and such so that it ensures compliance in the future, right through to when the rules have genuinely been broken, having some real teeth. But it's no good just having a sanctions regime which is you are either guilty or not guilty, a kind of black and white situation because more often than not you want a regulator to be able to encourage good behaviour, rather than specifically denigrate bad behaviour. That's part of that educator function. I'll stop there, to let many more people get to speak.
87. **Dr Jane Martin:** Thank you very much indeed. I'm very aware that there's lots of good points that need to be made. I'm going to invite Robert Barrington in a moment, but I can also see that Heather, Alistair and Leighton you all want to come in so I'll bring you in in a moment. Robert Barrington, please.
88. **Professor Robert Barrington:** Thank you very much. We asked the question, what works. After 25, 30 years of the anti-corruption pro-integrity movement, how do we know what works, and is it actually worthwhile having a committee like this, Nolan Principles, etc. I have to say in my assessment, you need standards and they need to be quite like the Nolan Principles, but what we know is that they don't work by themselves. So the question is what additional things you need to put into place to make the Nolan Principles work. Well, typically we might talk about leadership, but what the anti-corruption experience also tells us is that anti-corruption mechanisms are often operating in a vacuum of political will. And that's where I think the UK has found itself now. It's that previously we've taken the political will for granted. And now we don't have the political will. Well the good news is that there is experience about what the rest of the world has done, because by and large the rest of the world hasn't had the political will, so we can learn from that.
89. One of the things we learn is about leadership at other levels, not simply the political level. So reinforcing leadership, in individuals elsewhere in the body politic. Another is that we understand that when you get multiple standards breaches as we've had in the UK recently, the body politic gets anaesthetised to the effects, we don't feel the pain anymore. So, we need to understand that our circumstances are very different to how they have been. We will probably continue to have multiple standards breaches and we won't have the sense of outrage that previously have led to some of the responses. One of the things we've also learned is that strong institutions are really critical. And these are not pro-integrity institutions like the CSPL. These are institutions set up to do other things that by consequence of doing their jobs well, like an independent judiciary, have the effect of helping us uphold standards throughout society.
90. We can also see with regard to leadership that leadership doesn't just come from individuals, it can also come from institutions. And I think this is a really key point about the NAO in the Covid crisis, for example, we see institutional leadership as a sort of beacon for society and the body politic about how a good job can be done well in the public interest. And so, my conclusions from all this are that at a minimum we need to be doing some tidying up of the existing system, give ACOBA some teeth, let people initiate investigations on this, this is all the minimum stuff. We've got to tidy up that stuff we can all see is going wrong. What we also need to do is support some of those key institutions and mechanisms. So, you know, I'm wondering whether the role for the CSPL, standard setters and so on in the future is not about promoting integrity and focusing on politics, but really these wider mechanisms which are by their consequences of doing their job well, also uphold standards. And that includes for example, making sure that the Freedom of Information regime works properly. So, you know, this isn't just institutions, it's also mechanisms. And finally, somewhat contradictory to what Sam has mentioned, I think there is a very good case now for a very thorough examination about whether we need some kind of integrity, possibly even anti-corruption commission, which tries to bring together this very disparate system that has sprung up. I'm not saying we need one but I think we need to examine that case much more thoroughly than has ever been examined in the UK context before. Thank you.
91. **Dr Jane Martin:** Thank you very much indeed. And I think Heather, you wish to speak next.
92. **Professor Heather Marquette:** Thank you very much. Just two very quick points following on directly. So one is about the resilience of watchdogs and regulators, which is of course about independence, credibility, culture, and so on but it's also about resourcing. What we fund shows what we really value. The system needs to be properly resourced so that every regulator and watchdog feels that they have the resources needed to do their job well across every one of their functions. Second point on what Robert has made about a sort of anesthetised body politic. You know, other countries may not have lower expectations than the UK public does about the behaviour of their public servants and their politicians and so on. But what they have is experience over time of seeing multiple standards breaches that are not acted on and where there's impunity. So rather than thinking that there's somehow a culture of corruption elsewhere that we're lucky in the UK not to have, it's that that other countries’ so called ‘culture of corruption’ was built up over time. And I do think, without overstating the risk, it's important to take that really seriously, because it has happened elsewhere and there's nothing unique about the UK to say it wouldn't happen here.
93. **Dr Jane Martin:** Thank you very much. Alistair, please.
94. **Dr Alistair Clark:** Thank you, Jane. Very briefly, quite agree with Heather's point about resourcing. My point is a different one. There's always the potential for capture or the argument that the politicians are marking their own homework or that kind of argument. And I think this happens in both the House of Commons Committee on Standards, and the Lords Committee on Conduct, but perhaps in government we need to think about this some more, is the potential for lay members to be integrated into standards bodies, ACOBA for instance might be one, in which you can have other interests represented by lay members to give further oversight. Thanks.
95. **Dr Jane Martin:** Thank you very much. Leighton you wish to come in.
96. **Professor Leighton Andrews:** Just on institutional resilience, I wanted to just add the comments on social media first because I think social media does have an impact on institutional resilience. I agree with what was said earlier by Gillian about its impact on civility and lack of nuance, but I would add to that it supports a culture of 'whataboutery' as well. There's always someone there to say, well, you might think that's bad but what about that down the road, and then you get into a situation where we often have orchestrated whataboutery by parties or a pressure groups or others, which I think then feeds the culture which Heather has very helpfully called impunity, and I think that's something we should reflect on more. The second thing that social media does, particularly Facebook, and I wrote a book on Facebook last year, is it provides a direct platform for politicians and governments to the public, which bypasses traditional media gatekeepers and actually weakens the effect overall of traditional media and traditional media scrutiny. And I do think that has an impact on institutional resilience. But I wanted to focus finally on this point. It seems to me that we have a problem of institutional resilience at the moment in the standards area. I don't know how you interpret Sir Alex Allen's resignation as Independent Adviser to the Prime Minister without thinking that reflects a degree of lack of resilience of that institution, if we can call Sir Alex an institution. And I think Eric Pickles' comments on ACOBA and the limits to its role, in I think in evidence to this committee, reflect the problems of resilience of that committee, of that group, and their ability, effectively, to hold former ministers and as we've seen this week former officials to account.
97. I would now, and this bears on something said by Marcial, I do think there is a need for statutory underpinning of a number of these areas. I think we need an Office of Government Ethics, properly resourced, properly staffed, and that is able to take on the role of ACOBA, probably take on the role of jobs like the Independent Adviser to the Prime Minister, accountable to Parliament, and with effective legal sanctions. I take Sam's point, that there should be a range of sanctions if you like, that can be implemented, and they would range from the ticking off, to the use of criminal justice fines. And I do think that that kind of variety is now necessary if we are to reboot the system. Finally, can I just make a point. The Nolan rules - there aren't really different standards arrangements in the devolved administrations on the whole, their ministerial codes differ very little from the UK ministerial code, ditto Special Adviser codes and civil service codes, and all of those codes incorporate the Nolan Principles. I know that CSPL's remit doesn't extend into Wales and Scotland, but the signals that are sent, I think are really important.
98. **Dr Jane Martin:** Thank you very much indeed. Very, very helpful contribution. And, unfortunately, I have to be very conscious of time, so I think I'm moving on to topic six, which is - and we've already got into this territory I think - but about the differences, or should there be, are there differences between regulations for elected officials and appointed public servants. Particularly the sanctions regime, we've already touched on some of that, but just to make sure we've covered it appropriately I'm just going to ask Sarah Birch, please, to speak to that. And then I would invite comments from anybody else, as we move to wrap up. So Sarah, can you add anything for us on that particular point.
99. **Professor Sarah Birch:** I'd like to reiterate some of the comments that have been made about sanctions and binding sanctions. We do actually have in addition to examples already mentioned, we have other examples in electoral law for example, and elected officials are all governed by the laws which govern the electoral process, and those stipulate certain sanctions including being banned from holding office. If there's a violation, those work, people have been forced from office, people have been removed from office for violating this and that. I'm sure Alistair who is an expert in this will agree that that's one of the main reasons why we do have high quality elections and high quality electoral administration in the UK because you have binding sanctions. And so in addition to organisations such as for example the Boundary Commission that were mentioned that have an ethos of high integrity, we also have within the electoral system an institution of formal sanctioning that is effective. So I think in considering sanctions that are effective we could usefully examine electoral law. I'm not talking just about the Electoral Commission, I'm talking about procedures and institutions that long predate the Electoral Commission that have been effective for many generations in governing electoral integrity and maintaining high levels of electoral integrity. That might be potentially a good model to mine a bit more extensively in considering other types of institutions. Thank you.
100. **Dr Jane Martin:** Thank you. Now a number of people do want to come in. Alistair would you like to come in first and then Leighton, I can see your hand up. And also, Ciaran, so Alistair first.
101. **Dr Alistair Clark:** Yes, thanks Jane, thanks Sarah. Just a couple of things to say here. I think on the electoral front, we're in a better place now because of the Recall Act that was passed in 2015, we've now had three sets of recall elections, two of those successful, one not, I think we probably need a review as to how that's worked in practice, but there is actually a way in which miscreants can actually be recalled for serious misdemeanours. I would in terms of sanctions I would also point people to the House of Commons Committee on Standards report on sanctions as well, which has a gradation of sanctions, and they just released an update to this the other day. Things such as a requirement to attend training, withdrawal of facilities and services, and those kinds of things as well. So I think thinking is going on about a range of sanctions in relation to elected representatives. Electoral law, Sarah is right, I think it's well known that needs some tightening up and consolidation and so on. Sarah is right to point to that as well.
102. **Dr Jane Martin:** Thank you very much. Ciaran I think.
103. **Professor Ciaran Martin:** Yeah, very, very quick point. If there are moves to strengthen the sanctions regime and I can understand why, it would need to be thought about carefully, I think we also need to make compliance easier for the willing. And to pick up Marcial's point on MPs, the vast majority of MPs want to comply with expenses rules, if they're onerous and difficult then that makes it more difficult. For people who are subject to the business appointments rules it does seem a little strange that unpaid charitable appointments incur the same process and rules as board appointments in the sector that you've just left, and so forth. And so it's that point, again, I think it's not just about the sort of gradations of judgment, I think a sort of substance over form approach would lend itself to better outcomes. But I think we do need to think about the willing, how do you make it easy for people to comply, because then you'll get fewer technical breaches and technical breaches damage confidence.
104. **Dr Jane Martin:** Thank you very much indeed. Paul Haywood.
105. **Professor Paul Heywood:** Yes. So, no disagreements in principle with anything that's been said up to now but just a suggestion that we shouldn't stop thinking only of how individuals behave. Bit of shameless self-promotion here, Nik Kirby and I have recently been pushing the idea of what we call an 'institution first' notion of integrity. Because when we are trying to understand how individuals, particularly those who are operating in the public sphere, should behave, how they should behave is governed by the role that they have and the institution within which they're operating. And so we wouldn't expect necessarily everybody in every single setting to have to comply with the exact same understandings of what constitutes appropriate behaviour within a given setting. So I think if you don't set the framework of what the purpose of the institution is in terms of determining the appropriate role of somebody operating within that institution, then you're simply almost inevitably going to move to a set of kind of minimum standard expectations of behaviour at the individual level, which may be appropriate in many many cases and perhaps even the majority of cases, but will not be appropriate and in some cases. And so I think we need to move beyond just focusing on individuals, and also focus on standards at institutional level as well.
106. **Professor Heather Marquette, via chat box**: 2 final points from me - I agree with everyone who suggested some updating the 7 principles for the 21st century including redefining selflessness. I’d urge to find a way to combine a positive emphasis on civility/respect with a negative emphasis on personal enrichment. Finally, as others have noted we also need to think about the impact of the digital world with regard to objectivity, honesty and openness that reflects new expectations/opportunities around open government, data and use of evidence as well as threats to things like behaviour around elections, use of encrypted messaging services to avoid FOI etc.
107. **Marcial Boo, via chat box:** Agree with Ciaran - regulation, like a good referee, needs to let good people play the game, and only raise a yellow (or red) card for those few who try to break the rules.
108. **Dr Jane Martin:** Thank you very much indeed. I'm very grateful for that and I'm so sorry we've had to canter through it rather quickly because you know I'm sure we could have had some great discussion on the back of some of those points. I'm going to call on Mark now who can help us with a summary before the chairman wraps up. So, Mark.
109. **Professor Mark Philp:** I won't keep on, it seems to me that the really interesting case I think has been made for saying look, if you want to ask a question about directions of change in relation to standards, you have to recognize that they have been changing in a context which is also been changing, and recognising the interactions between those two different - those several different components - does produce some kind of a better set of understandings and why things might be going wrong in some areas and not in other areas and so on and so forth. So even if we think that there's now a regulatory framework which didn't exist 25 years ago, we can recognise that the regulatory framework is under pressure because of the wider changes that people have identified, such as what it is to be a public servant, what counts is being part of public life. The committee has looked at the difference between the role of organisations delivering public services, so we've already looked outside the kind of the administration of the government to other bodies but interesting questions are raised by this.
110. And I think what I'd say about the regulators that has come out is firstly that there doesn't seem to be a huge appetite for creating any centralized body or anti-corruption commission, though people are clearly thinking about whether that's an appropriate model, and I think the committee would be happy to hear people's thoughts on that, if you want to put it on paper. And there are problems, and there is a question about institutional setting. What people are saying is that many of these regulations have a history of experience that allows them to work, often in extremely effective ways. But with every kind of regulation the committee needs to be thinking, this is what I've taken from you, about five different things. I quite like Sam's educate, investigate and sanction - so do they have, are they performing an educative function, so that people they are regulating know what they're supposed to be doing. Do they have the powers to investigate when those things go wrong. Do they have the sanctions or are there the sanctions on the part of those that they report to, to ensure that they can deal with cases. And the other two things that Sam didn't mention is, do they have resources, which I think Marcial kind of raised, that seems to be absolutely right, we've got to reflect on whether these institutions are appropriately resourced. And the final thing is, no, there needs to be some assessment for each of these bodies as to how resilient and resistant to capture they are. And some thinking done about what are the conditions for resilience in particular areas. It's very difficult to see now that you could get rid of the Parliamentary Commissioner for Standards, but it's very difficult to see how you could make it a more comfortable job to hold. Sometimes you just are going to be at the coal face all the time. So with that, I would say thanks very much. I think there's some very interesting ideas here. And thanks for your evidence.
111. **Lord Evans:** So I think it falls to me to repeat our thanks to everybody for taking part today in a really interesting conversation, some very interesting observations. I think there will be a few things on which we might come back to individual participants - I would be very interested to understand the thinking of one or two people on for instance an Integrity Commission or an Office of Government Ethics etc. Not because we necessarily think that is the answer but it is an answer, and therefore understanding how that might shape up is very valuable from our point of view. I would also say that the comment on the appropriate resourcing of ethics bodies does ring a little bell with us, given that our resourcing was very significantly cut a few years ago, it would have been considerably more cut, possibly down to zero, had it not been for the skilful intervention of Peter Riddle who did the review of this committee.
112. The conversation today does emphasise to us, the range and complexity of the issues, which we are seeking to address with a relatively small resource available, but obviously we get significant help from the expertise around the table today. So thank you very much indeed. A transcript will be sent in the coming weeks, and we will check before any publication of that. This has been being tweeted, if anyone wants to follow that or go back to it on @PublicStandards. So thank you very much indeed.