

UPHOLDING STANDARDS IN PUBLIC LIFE, NOVEMBER 2021 - GOVERNMENT RESPONSE AS SET OUT IN STRENGTHENING ETHICS AND INTEGRITY IN CENTRAL GOVERNMENT, JULY 2023, CP 900

(The fully met/partially met/rejected classification is CSPL's own assessment)

No.	Recommendation	Summary of government response	<div style="text-align: center;"> Fully met Partially met Rejected </div>
1	The Civil Service should review its approach to enforcing ethical standards across government, with a view to creating a more rigorous and consistent compliance system, in line with the recommendation of the Boardman report.	The Government will clarify the distribution of formal accountabilities, outlining the responsibilities of the relevant persons in departments.	
2	The government should pass primary legislation to place the Independent Adviser on Ministers' Interests, the Public Appointments Commissioner, and the Advisory Committee on Business Appointments on a statutory basis.	The Government is not bringing forward new primary legislation to underpin the roles, remits, and codes of standards bodies.	
3	The Ministerial Code should be reconstituted solely as a code of conduct on ethical standards.	The Government is maintaining the existing structure of the Ministerial Code.	
4	A requirement for the Prime Minister to issue the Ministerial Code should be enshrined in primary legislation.	The Government does not believe the Ministerial Code should be enshrined in primary legislation.	
5	The Independent Adviser should be consulted in any process of revision to the Ministerial Code.	Section 3.1 of the terms of reference for the Independent Adviser states that "Before the Ministerial Code is amended, the Prime Minister will consult the Independent Adviser."	

6	The Ministerial Code should detail a range of sanctions the Prime Minister may issue, including, but not limited to, apologies, fines, and asking for a minister's resignation.	The Prime Minister has introduced graduated sanctions under the Ministerial Code, which now states at paragraph 1.7: "Where the PM retains his confidence in the Minister, available sanctions include requiring some form of public apology, remedial action, or removal of ministerial salary for a period."	
7	The Independent Adviser should be appointed through an enhanced version of the current process for significant public appointments.	The Government believes that the Independent Adviser should remain a direct ministerial appointment.	
8	The Independent Adviser should be able to initiate investigations into breaches of the Ministerial Code.	In line with the latest Terms of Reference and Ministerial Code, the Independent Adviser may now initiate an investigation having consulted the Prime Minister. While the Prime Minister could choose not to consent to an investigation where the Prime Minister considers there are public interest reasons for doing so, the Independent Adviser is able to require that the reasons be made public.	
9	The Independent Adviser should have the authority to determine breaches of the Ministerial Code.	The Government considers the Prime Minister must retain the ultimate right to make a determination on whether or not a Minister has breached the Ministerial Code.	
10	The Independent Adviser's findings should be published no more than eight weeks after a report has been submitted to the Prime Minister.	The Terms of Reference of the Independent Adviser state that he may "require that his advice at the conclusion of an investigation be published in a timely manner". The Government agrees that this should occur no more than eight weeks after a report is submitted to the Prime Minister.	
11	The Business Appointment Rules should be amended to prohibit for two years appointments where the applicant has had significant and direct responsibility for policy, regulation, or the awarding of contracts relevant to the	The Government considers that an automatic prohibition for two years is overly broad and could have unintended consequences. The Government thinks that, in practice, the system they are putting forward of including more of	

	hiring company.	the requirements about restrictions on future employment in contracts may come to similar conclusions as recommended here but will be taken on the basis of contractual clauses.	
12	The Business Appointment Rules should be amended to allow ACOBA and government departments to issue a ban on lobbying of up to five years.	The Government considers this recommendation is too broad. It considers that a ban on lobbying of five years could be deemed as an unreasonable restraint on trade. Lobbying bans will continue to be part of the ongoing system but applied proportionately.	
13	The lobbying ban should include a ban on any work for lobbying firms within the set time limit.	As for recommendation 12.	
14	The government should make adherence to the Business Appointment Rules (BAR) an enforceable legal requirement for ministers, civil servants, and special advisers, and set out what the consequences for a breach of contract may be.	The Government agrees that the Rules should be incorporated more effectively into contracts. While the Rules already form part of civil servant terms and conditions, this can be strengthened by increasing the detail in the contractual clauses so they make clear what people can and cannot do after leaving Government. The Government will develop a 'ministerial deed' which will be designed to legally commit ministers to the Rules, and any resulting conditions.	
15	ACOBA rulings should be directly binding on applicants.	The Government is clear that the Business Appointment Rules must be binding on all who are subject to them. The Government's proposal is that for those on new terms and conditions, the proposal will change from one where they apply to ACoBA for advice to one where they consult the Rules and their contract for the resulting conditions. In such cases, it will be the contractual clauses - rather than ACoBA rulings - that will be binding on individuals.	
16	ACOBA should have the power to undertake	The Government says that ACoBA is already empowered	

	investigations into potential breaches of the Business Appointment Rules, and be granted additional resources as necessary. The Cabinet Office should decide on sanctions or remedial action in the case of a breach.	to make inquiries into potential breaches of the Business Appointment Rules. The Government has provided more resources to ACoBA and discussions on resource allocation will continue to take place.	
17	Government departments should publish anonymised and aggregated data on how many applications under the Business Appointment Rules are submitted, approved, or rejected each year.	The Government agrees that the recommended information should be published.	
18	The Cabinet Office should ensure the Business Appointment Rules are applied consistently across all government departments, and work with ACOBA to promote best practice and awareness of the rules.	A new departmental training programme is underway and this will be supplemented as needed with other support, in collaboration with ACOBA. This will include guidance on the changes the Government is making to introduce a new application route for lower risk roles and will provide greater clarity on which roles do not require an application at all.	
19	The Governance Code for Public Appointments should be amended to make clear that ministers should not appoint a candidate who is deemed unappointable by an assessment panel, but if they do so, the minister must appear in front of the relevant select committee to justify their decision.	In the event that a Minister decides to appoint a candidate not deemed appointable by an Advisory Assessment Panel, Ministers will be obliged to write to their Select Committee, and appear before it if requested by the Select Committee Chair. The Governance Code on Public Appointments will be amended to reflect this.	
20	The Governance Code should be amended so that ministers must consult with the Commissioner for Public Appointments on the composition of all panel members for competitions for significant appointments.	The Government believes that the current process for Significant Public Appointments is properly constituted to ensure that the composition of Advisory Assessment Panels is balanced and fair.	
21	Senior Independent Panel Members should have a specific duty to report to the Commissioner on the conduct of significant competitions.	The Government believes the purpose of this recommendation is met by the Model Letter for Senior Independent Panel Members which says that SIPMs should highlight any material breaches of the Governance Code.	

22	The chairs of ACOBA and HOLAC, the Registrar of Consultant Lobbyists, the Commissioner for Public Appointments and the Independent Adviser on Ministers' Interests should all be appointed through the process for significant public appointments, and the assessment panel for each should have a majority of independent members.	<p>The Chairs of ACOBA, HOLAC and CSPL are appointed via the process for significant public appointments, while the Commissioner for Public Appointments is appointed via an equivalent process. The Government believes that the Independent Adviser on Ministers' Interests should continue to be a direct ministerial appointment.</p> <p>The Government does not believe that these appointments require an extra layer of independent oversight (either through a panel having a majority of independent members, or the granting of a veto to the relevant select committee).</p>	
23	Chairs of standards committees should chair assessment panels for the appointment of their independent members.	The Government agrees that where standards bodies are committees (ACoBA, CSPL, HOLAC), that the Chair of the body chairs the Advisory Assessment Panel for the recruitment of their independent members.	
24	Government departments should publish a list of all unregulated and regulated public appointments.	The Government will require departments to publish annually a list of direct ministerial appointments (DMAs) under their remit. The terms of reference for DMAs will be published online.	
25	The appointments process for Non-Executive Directors of government departments should be regulated under the Governance Code for Public Appointments.	Future appointments of NEDs to Government Departments will be regulated by the appointments process laid out in the Governance Code.	
26	The Cabinet Office should collate all departmental transparency releases and publish them in an accessible, centrally managed and searchable database.	The Cabinet Office is developing a single database to collate and publish departmental transparency returns covering meetings, gifts, hospitality and travel.	
27	The Cabinet Office should provide stricter guidelines on minimum standards for the descriptions of meetings and ensure compliance by government departments.	New government guidance will create stricter minimum standards for descriptions of meetings and make clear that meeting descriptions contain relevant and instructive information.	

28	The government should publish transparency returns monthly, rather than quarterly, in line with the MPs' and peers' registers of interests.	Following the development, deployment, and adoption of an integrated transparency platform, the Government will look to move departments' transparency publications from a quarterly to a monthly basis.	
29	The government should include meetings held between external organisations, directors general, and directors in transparency releases.	The Government agrees that transparency obligations should be extended to all Directors General, Finance and Commercial Directors, and Senior Responsible Owners in the Government's Major Projects Portfolio. This change will be implemented in the next version of the Government's transparency guidance.	
30	The government should include meetings held between external organisations and special advisers in transparency releases.	The Government does not believe that transparency obligations should be extended to equivalent Special Advisers on the basis that Special Advisers cannot authorise public expenditure nor exercise any statutory powers.	
31	The government should update guidance to make clear that informal lobbying, and lobbying via alternative forms of communication such as WhatsApp or Zoom, should be reported to officials.	The Government has issued new guidance on Non-Corporate Communication Channels and the principle that any discussion of official business must be reported back to officials includes conversations conducted via WhatsApp or Zoom, or in social settings.	
32	The government should revise the categories of published information to close the loophole by which informal lobbying is not disclosed in departmental releases.	The Government will expand transparency obligations to include the disclosure of diarised phone calls and virtual meetings. The Government does not believe this needs to include letters, WhatsApps, impromptu phone calls or emails, which do not alone evidence a substantive lobbying engagement.	
33	Consultant lobbyists should also have to register on the basis of any communications with special advisers, directors general, and directors.	The Government accepts in principle that the scope of departments' transparency returns should be mirrored in the requirements of the Register of Consultant Lobbyists.	

		However, the Government will be assessing the impact of expanded transparency returns on departments before introducing such a change in primary legislation.	
34	Consultant lobbyists should have to declare the date, recipient, and subject matter of their lobbying.	The Government agrees in principle that consultant lobbyists should have to declare the subject matter of their lobbying and will look to implement this via secondary legislation. However, the Government does not agree that they should have to declare individual instances of lobbying (date and recipient), as this would change the nature of the Register from a list of consultant lobbyists' clients to a list of individual instances of lobbying. These are recorded in the departmental transparency returns, against which the Register of Consultant Lobbyists can be cross-referenced.	